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CHAPTER 6

Human Rights

A. GENERAL

1. Country Reports on Human Rights Practices

On March 13, 2019, the Department of State released the 2018 Country Reports on Human Rights Practices. The Department submits the reports to Congress annually per §§ 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended, and § 504 of the Trade Act of 1974, as amended. These reports are often cited as a source for accounts of human rights practices in other countries. While the Country Reports describe facts relevant to human rights concerns, the reports do not reach conclusions about human rights law or legal definitions. The Country Reports are available at <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/>. Michael G. Kozak, Acting Principal Deputy Assistant Secretary for Democracy, Human Rights, and Labor, presented the 2018 Country Reports in a briefing on March 13, 2019, which is transcribed at <https://www.state.gov/ambassador-michael-kozak-bureau-of-democracy-human-rights-and-labor-on-the-release-of-the-2018-country-reports-on-human-rights-practices/>. Secretary of State Michael R. Pompeo also delivered remarks on the release of the 2018 Reports on March 13, 2019. Secretary Pompeo's remarks are available at <https://www.state.gov/remarks-on-the-release-of-the-2018-country-reports-on-human-rights-practices/>.

2. General Statement at UN Third Committee

On November 7, 2019, the United States submitted a general statement relevant to multiple resolutions at the Third Committee of the UN. The U.S. general statement follows and is available at <https://usun.usmission.gov/united-states-general-statement-on-issues-relevant-to-multiple-third-committee-resolutions/>.

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The United States takes this opportunity to make important points of clarification on some of the language we see reflected across multiple resolutions. We underscore that these and other UN General Assembly resolutions are non-binding documents that do not create rights or obligations under international law.

The United States understands that General Assembly resolutions do not change the current state of conventional or customary international law. We do not read resolutions to imply that States must join or implement obligations under international instruments to which States are not a party, and any reaffirmation of such Convention applies only to those States that are party to it. For the United States, this understanding includes references to the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of Persons with Disabilities, the International Covenant on Economic, Social, and Cultural Rights, and Convention on the Rights of the Child, to which we are not party. Moreover, U.S. co-sponsorship of or consensus on resolutions does not imply endorsement of the views of special rapporteurs or other special procedures mandate-holders as to the contents of international law. We note that the Universal Declaration of Human Rights does not create binding obligations on States.

Points of Clarification

Universal Access to Health Care: The United States aspires to help increase access to high-quality health care, but we understand that each country should develop its own approach to achieving access to health care within its own context. The United States also recognizes the important role of partnerships with the private sector non-governmental organizations, including faith-based organizations, and other stakeholders. As we said at the time of the adoption of the Political Declaration on Universal Health Coverage, patient control and access to high-quality, people-centered care are key.

Women's Equality and Empowerment: The United States is committed to promoting women's equality and to empowering women and girls. Accordingly, when the subject of resolution text is "women," or in some cases "women and girls," our preference is to use these terms rather than "gender" for greater precision. Further, the United States recalls the unequivocal objections of two delegations to the adoption of the so-called Agreed Conclusions of the 63rd meeting of the Commission on the Status of Women (CSW), which included substantive concerns the United States shared. Many of those same problems are endemic amongst Third Committee resolutions, including problematic references to abortion, the proliferation of ill-defined gender jargon, and the inclusion of language that undermines the role of the family. The United States does not consider the outcome documents from this year's meeting of the Commission on the Status of Women to be the product of consensus.

International Criminal Court (ICC): The United States does not and cannot support references to the International Criminal Court and the Rome Statute that do not distinguish sufficiently between Parties and Non-Parties, or are otherwise inconsistent with the U.S. position on the ICC, particularly our continuing and longstanding objection to any assertion of ICC jurisdiction over nationals of States that are not parties to the Rome Statute absent a referral from the UN Security Council or consent of such a State. Our position on the ICC in no way diminishes our commitment to supporting accountability for atrocities.

Additionally, the United States notes that any references to certain acts as crimes against humanity or war crimes under the Rome Statute should be understood in the context of how those terms are defined in the Statute itself, including that crimes against humanity must include

a widespread or systematic attack against a civilian population and/or pursuant to a state or organizational policy.

Sexual and Reproductive Health: The United States defends human dignity, and supports access to high-quality health care for women and girls across the lifespan. We do not accept references to “sexual and reproductive health,” “sexual and reproductive health and reproductive rights,” “safe termination of pregnancy,” or other language that suggests or explicitly states that access to legal abortion is necessarily included in the more general terms “health services” or “health care services” in particular contexts concerning women. The United States believes in legal protections for the unborn, and rejects any interpretation of international human rights (such as General Comment 36 on the International Covenant on Civil and Political Rights) to require any State Party to provide safe, legal, and effective access to abortion. As President Trump has stated, “Americans will never tire of defending innocent life.” Each nation has the sovereign right to implement related programs and activities consistent with their laws and policies. There is no international right to abortion, nor is there any duty on the part of States to finance or facilitate abortion. Further, consistent with the 1994 International Conference on Population and Development Programme of Action and the 1995 Beijing Declaration and Platform for Action, and their reports, we do not recognize abortion as a method of family planning, nor do we support abortion in our global health assistance.

Migration: The United States maintains the sovereign right to facilitate or restrict access to its territory, in accordance with its national laws and policies, subject to our existing international obligations. The United States did not participate in the negotiation of the Global Compact for Safe, Orderly, and Regular Migration (GCM), objected to its adoption, and is not bound by any of the commitments or outcomes stemming from the GCM process or contained in the GCM itself. The GCM and the New York Declaration for Refugees and Migrants contain goals and objectives that are inconsistent and incompatible with U.S. law, policy, and the interests of the American people. We refer you to the National Statement of the United States of America on the Adoption of the GCM, issued December 7, 2018.

2030 Agenda for Sustainable Development: We underscore that the 2030 Agenda is non-binding and does not create or affect rights or obligations under international law, nor does it create any new financial commitments. Further, the United States understands any references to “internationally agreed development goals” to be referring to the non-binding 2030 Agenda.

The United States recognizes the 2030 Agenda as a global framework for sustainable development that can help countries work toward global peace and prosperity. We applaud the call for shared responsibility, including national responsibility, in the 2030 Agenda and emphasize that all countries have a role to play in achieving its vision. The 2030 Agenda recognizes that each country must work toward implementation in accordance with its own national policies and priorities.

The United States also underscores that paragraph 18 of the 2030 Agenda calls for countries to implement the Agenda in a manner that is consistent with the rights and obligations of States under international law. We also highlight our mutual recognition in paragraph 58 that 2030 Agenda implementation must respect and be without prejudice to the independent mandates of other processes and institutions, including negotiations, and does not prejudice or serve as precedent for decisions and actions underway in other forums. For example, this Agenda does not represent a commitment to provide new market access for goods or services. This Agenda also does not interpret or alter any WTO agreement or decision, including the Agreement on Trade-Related Aspects of Intellectual Property.

Further, the 2030 Agenda states that “no one” will be left behind. We believe any alteration from the 2030 language, such as “no country left behind,” erodes the people-centered focus of the Agenda and distracts from the many multi-faceted and multi-stakeholder efforts to advance sustainable development.

Climate Change: The United States submitted formal notification of its withdrawal from the Paris Agreement to the United Nations on November 4, 2019. The withdrawal will take effect one year from the delivery of the notification. Therefore, references to the Paris Agreement and climate change are without prejudice to U.S. positions.

With respect to references to the Intergovernmental Panel on Climate Change (IPCC) special reports, the United States has indicated at the IPCC that IPCC acceptance of such reports and approval of their respective Summaries for Policymakers does not imply U.S. endorsement of the specific findings contained in the reports. References to the IPCC special reports are also without prejudice to U.S. positions.

Trade: As President Trump stated to the General Assembly on September 25, 2018, the United States will act in its sovereign interest, including on trade matters. This means that we do not take our trade policy direction from the United Nations. It is our view that the United Nations must respect the independent mandates of other processes and institutions, including trade negotiations, and must not involve itself in decisions and actions in other forums, including at the World Trade Organization. The UN is not the appropriate venue for these discussions, and there should be no expectation or misconception that the United States would heed decisions made by the Economic and Social Council or the General Assembly on these issues. This includes calls that undermine incentives for innovation, such as technology transfer that is not voluntary and on mutually agreed terms. Further, the United States is disappointed to see references to the “world financial and economic crisis.” We note that impacts of the financial crisis are no longer of any real relevance and continued references to it detract from efforts to focus both on today’s challenges and on the steady global economic growth we are experiencing.

We take this opportunity to make important points of clarification regarding the reaffirmation of the Addis Ababa Action Agenda. Specifically, we note that much of the trade-related language in the Addis outcome document has been overtaken by events since July 2015; therefore, it is immaterial, and our reaffirmation of the outcome document has no standing for ongoing work and negotiations that involve trade.

Right to Development: The “right to development,” which is not recognized in any of the core UN human rights conventions, does not have an agreed international meaning. Furthermore, work is needed to make it consistent with human rights, which the international community recognizes as universal rights held and enjoyed by individuals and which every individual may demand from his or her own government.

Also, we continue to be concerned that the “right to development” referenced in resolutions this year protects states instead of individuals. States must implement their human rights obligations, regardless of external factors, including the availability of development and other assistance. Lack of development may not be invoked to justify the abridgement of internationally recognized human rights. To this end, we continually encourage all states to respect their human rights obligations and commitments, regardless of their levels of development.

Therefore, we continue to oppose reference to the “right to development” in resolutions presented in the General Assembly this session

ESC Rights: As the International Covenant on Economic, Social, and Cultural Rights

provides, each State Party undertakes to take the steps set out in Article 2(1) “with a view to achieving progressively the full realization of the rights.” We interpret references to the obligations of States as applicable only to the extent they have assumed such obligations, and with respect to States Parties to the Covenant, in light of its Article 2(1). The United States is not a Party to the International Covenant on Economic, Social, and Cultural Rights and the rights contained therein are not justiciable as such in U.S. Courts. We note that countries have a wide array of policies and actions that may be appropriate in promoting the progressive realization of economic, social, and cultural rights. We therefore believe that resolutions should not try to define the content of those rights, or related rights, including those derived from other instruments.

Education: The United States is firmly committed to providing equal access to education. As educational matters in the United States are primarily determined at the state and local levels, when resolutions call on States to strengthen various aspects of education, including with respect to curriculum, this is done in terms consistent with our respective federal, state, and local authorities.

And finally, it is our intention that this statement applies to action on all agenda items in the Third Committee. We request that this statement be made part of the official record of the meeting.

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3. Human Rights Council

As discussed in *Digest 2018* at 173-76, the United States withdrew from the Human Rights Council (“HRC”) in 2018. On November 1, 2019, John Giordano, counselor for the U.S. Mission to the UN, delivered remarks on the report of the HRC. Mr. Giordano’s remarks are excerpted below and available at <https://usun.usmission.gov/remarks-by-the-united-states-on-the-report-of-the-human-rights-council/>.

* * * *

Thank you, Mr. President, as we reflect on the recent work of the Human Rights Council, we must all acknowledge that the body continues to fall far short of its potential as laid out by the General Assembly in 2006.

Underpinning the problems affecting the Council is a broken membership selection process that permits human rights abusers such as the former Maduro regime to gain representation at the expense of those who would support human rights. As Ambassador Craft said, “that one of the world’s worst human rights abusers would be granted a seat on a body that is supposed to defend human rights is utterly appalling.” The Council will never achieve legitimacy as long as States responsible for human rights violations and abuses are given a platform to criticize the human rights situations of other states all the while perverting the Council’s own mechanisms to avoid responsibility for their own violations and abuses.

Further undercutting the Council's credibility is its continued refusal to treat all states equally, as demonstrated by its continued discriminatory treatment of Israel under permanent Item 7.

Moreover, we have grave concerns about reprisals against human rights defenders appearing before the HRC and other UN fora in Geneva, including Chinese efforts to silence voices of dissent in its Universal Periodic Review.

We continue to hope that changes in procedures and focus can enable the Council to meaningfully promote, in the words of resolution 60/251, "universal respect for the protection of all human rights and fundamental freedoms for all."

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4. Country-specific Concerns

a. Human Rights Report on Venezuela

On July 5, 2019, the State Department issued a press statement on the UN Human Rights report documenting human rights abuses by the former Maduro regime in Venezuela. The statement is available at <https://www.state.gov/un-human-rights-report-documents-maduro-regimes-human-rights-abuses/>.

b. Venezuela's election to the Human Rights Council

On October 17, 2019, the State Department issued a press statement by Secretary Pompeo on the illegitimate election of the Maduro regime in Venezuela to a seat on the HRC. The press statement appears below and is available at <https://www.state.gov/illegitimate-maduro-regimes-election-to-the-un-human-rights-council/>.

* * * *

The UN High Commissioner report on Human Rights issued this past July documented egregious human rights abuses of the former Maduro regime in Venezuela. It is sadly no surprise that Maduro shamelessly sought a seat on the UN Human Rights Council in an effort to block any limit to his repressive control of the Venezuelan people. What is truly tragic, however, is that other nations voted to give Maduro's representative for Venezuela a seat on the UN Human Rights Council. This is a harsh blow not just against the victims of the Venezuelan regime, but also against the cause of human rights around the world.

The Human Rights Council ought to be a protector and defender of human rights of people the world over. It should be speaking out about the daily abuses of the former Maduro regime, and others like it. Instead, the Council has become an exercise in shameless hypocrisy—with some of the world's most serious offenders sitting on the Council itself. Its membership includes authoritarian governments with unambiguous and abhorrent human rights records, such

as China, Cuba, and Venezuela. These are among the reasons why the United States withdrew from the Human Rights Council in 2018.

The United States strongly supports multilateral organizations that sincerely and effectively work to protect human rights. The election to the Human Rights Council of Maduro's representative is a farce that further undermines the Council's already frail credibility. We desire to work with our allies and partners in support of Venezuelan interim President Guaidó's efforts to restore human rights and democracy in Venezuela, a critical objective that reflects the United States' commitment to human rights and freedom.

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5. Treaty Bodies

On June 27, 2019, Ambassador Cherith Norman Chalet, U.S. Representative to the UN for UN Management and Reform, delivered a statement for the United States at the annual meeting of Chairpersons of the Human Rights Treaty Bodies with member states. Ambassador Norman's June 27 intervention follows. The Costa Rica paper referenced in the statement is available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1354&Lang=en.

* * * *

The United States has been integrally involved in conversations about treaty body reform since well before Resolution 68/268 in 2014, and we are pleased to join this discussion today. The treaty body system plays a critical role in holding States accountable for meeting their obligations under human rights treaties, and we firmly support efforts to strengthening this system and enhance coordination among the bodies.

To this end, our colleagues in Geneva have worked closely with other states in developing the list of important considerations that Costa Rica sent to you last week. While it may not be feasible to pursue implementation of every element on the list, we endorse the Costa Rican paper as a clear and useful roadmap for focusing the dialogue as we move toward the April 2020 review.

I would just highlight a few elements of particular importance:

- First, we must find additional ways to reduce the burden on both states and treaty bodies from repeated volleys of information in a single reporting cycle. While important efficiencies have been gained through simplified reporting, page limits, and the common core document, we must redouble our efforts to streamline reporting, consolidate where appropriate, harmonize procedures across treaty bodies, and explore a coordinated calendar to make reporting more manageable.
- Second, we must find ways to improve the selection and election process of members, including by increasing transparency, to ensure that members are both substantively qualified and demonstrably independent of their government. Strong membership makes treaty bodies more credible and effective.

- Third, we must improve safeguards against intimidation and reprisals against individuals and groups cooperating with treaty bodies.

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B. DISCRIMINATION

1. Race

a. CERD Observations on China's actions in Xinjiang

On October 29, 2019, at the Third Committee dialogue of the Committee for the Elimination of Racial Discrimination, a group of 23 countries, which included the United States, issued a statement on Xinjiang. The joint statement, delivered by the Ambassador for the United Kingdom, is available at <https://usun.usmission.gov/joint-statement-delivered-by-uk-rep-to-un-on-xinjiang-at-the-third-committee-dialogue-of-the-committee-for-the-elimination-of-racial-discrimination/> and reads:

We share the concerns raised by the Committee for the Elimination of Racial Discrimination in their August 2018 Concluding Observations on China regarding credible reports of mass detention; efforts to restrict cultural and religious practices; mass surveillance disproportionately targeting ethnic Uighurs; and other human rights violations and abuses in the Xinjiang Uighur Autonomous Region.

We call on the Chinese government to uphold its national laws and international obligations and commitments to respect human rights, including freedom of religion or belief, in Xinjiang and across China. The Chinese government should urgently implement CERD's eight recommendations related to Xinjiang, including by refraining from the arbitrary detention of Uighurs and members of other Muslim communities. In view of these concerns, we call on all countries to respect the principle of non-refoulement.

Furthermore, we call on the Chinese government to allow the Office of the United Nations High Commissioner for Human Rights and UN Special Procedures immediate unfettered, meaningful access to Xinjiang.

On the same day, U.S. Permanent Representative to the UN Kelly Craft delivered a statement for the United States during the Third Committee meeting with the chair of the Committee on the Elimination of Racial Discrimination. Ambassador Craft's statement is available at <https://usun.usmission.gov/statement-during-the-third-committee-interactive-dialogue-with-the-chair-of-the-committee-on-the-elimination-of-racial-d/> and follows:

The United States aligns itself with the joint statement delivered by the UK. We condemn the Chinese government's arbitrary detention of more than one million Uighur and other Muslims in internment camps in Xinjiang. We will speak out against violations of human rights and human dignity wherever they occur. Further, the US welcomes the Committee's report. The Committee plays a crucial role monitoring and promoting States Parties' implementation of their Convention obligations.

We are firmly committed to promoting equality and strongly condemn all forms of racial discrimination. We are dedicated to pursuing its elimination, while also respecting freedoms of expression, association, and peaceful assembly.

We recognize the threat of racial discrimination, and we support collaboration among States Parties, NGOs, civil society groups, and individuals to counter racism and combat bias-motivated violence.

b. Follow-up to the Durban Declaration

On November 19, 2019, Jason Mack, counselor for the U.S. Mission to the UN, delivered the U.S. statement on "Follow-up to the Durban Declaration." Mr. Mack's statement is excerpted below and available at <https://usun.usmission.gov/statement-on-agenda-item-68-b-follow-up-to-the-durban-declaration/>.

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The United States remains firmly committed to combatting racism and racial discrimination. Indeed, we recognize a special obligation to do so given historical injustices perpetrated during past eras of colonial expansion into indigenous communities, slavery, and Jim Crow. We pledge to continue our work with civil society, international mechanisms, and all nations of goodwill to combat this evil.

The United States implements the International Convention on the Elimination of All Forms of Racial Discrimination to which we are a State Party, because we believe it provides comprehensive protections in this area and constitutes the most relevant international framework to address all forms of racial discrimination. We continue to raise the profile of and participate in activities in support of the International Decade for People of African Descent.

In addition, we remain deeply concerned about speech that advocates national, racial, or religious hatred, particularly when it constitutes discrimination, hostility, or incitement to violence. From our own experience and history, the United States remains convinced that the best antidote to offensive speech is not bans and punishments but a combination of three key elements: robust legal protections against discrimination and hate crimes, proactive government outreach to racial and religious communities, and the vigorous protection of freedom of expression, both on- and off-line.

Like last year, we regret that we cannot support this resolution on such an important topic, because this text is not genuinely focused on combatting racism, racial discrimination,

xenophobia and related intolerance. Among our concerns about the resolution are its endorsements of the Durban Declaration and Program of Action (DDPA), as well as the outcome of the Durban review conference, and its endorsement of overbroad restrictions on freedom of speech and expression. We reject any efforts to advance the “full implementation” of the DDPA. We believe this resolution serves as a vehicle to prolong the divisions caused by the Durban conference and its follow-up rather than providing a comprehensive and inclusive way forward for the international community to combat the scourge of racism and racial discrimination.

In addition, the United States cannot accept the resolution’s call for States Parties, as a matter of urgency, to consider withdrawing reservations to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination or its suggestion that such reservations may be contrary to the object and purpose of the treaty; we note that this resolution has no effect as a matter of international law. We also categorically reject the resolution’s welcoming a call for “former colonial Powers” to provide reparations “consistent with” the DDPA.

Finally, we underscore our concerns about the additional costs this resolution will impose on the UN’s regular budget through the request for reactivation of the Independent Eminent Experts’ activities. In view of the significant constraints on the UN’s regular budget, and the limited ability of member states to provide increasing amounts of resources, we stress the need for this body to consider carefully the resource implications of such requests before making them.

For these reasons, we must again vote against this resolution, and we urge other delegations to do the same.

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2. Gender

a. *Women, Peace, and Security*

On June 11, 2019, the State Department issued a press statement by Secretary Pompeo announcing the release of the U.S. strategy on women, peace, and security. The statement is excerpted below and available at <https://www.state.gov/release-of-the-united-states-strategy-on-women-peace-and-security/>.

* * * *

Women around the world have an essential role in conflict prevention and resolution, security provision, peace processes, and countering terrorism. For over a decade, the United States has been a leader in promoting global peace and stability by empowering women to take on those roles and addressing challenges faced by women and girls in conflict and disaster affected areas. Today, the United States reaffirms our leadership on these issues with President Trump’s release of the U.S. Strategy on Women, Peace, and Security.

The strategy directs the Department of State to ensure women and girls’ meaningful participation and safety in efforts to promote stable and lasting peace as well as enhance U.S.

partners' capacity to advance women, peace, and security. We are proud to take on this task in partnership with the Department of Defense, Department of Homeland Security, and the United States Agency for International Development (USAID). The Department of State will mobilize the unique contributions of American diplomacy through the implementation of this strategy.

The United States recognizes that societies which empower women economically and politically are more stable and peaceful. As such, the strategy is a government-wide effort, complementing the recently announced Women's Global Development and Prosperity Initiative. Both efforts underscore President Trump's emphasis on the importance of empowering women to participate fully in civic and economic life, leading to more peaceful and prosperous societies.

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On October 29, 2019, Ambassador Craft delivered the explanation of vote for the United States on the adoption by the Security Council of a resolution on women, peace, and security. Ambassador Craft's statement is excerpted below and available at <https://usun.usmission.gov/explanation-of-vote-on-the-adoption-of-the-un-security-council-resolution-on-women-peace-and-security/>.

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The United States joins other member states in support of the Women, Peace, and Security Resolution. We remain deeply committed to this issue.

I commend South Africa for the cooperative spirit in which it led this process. However, the resolution refers to previous documents that include references to 'sexual and reproductive health.' I must note that we cannot accept references to "sexual and reproductive health," nor any references to "safe termination of pregnancy" or language that would promote abortion or suggest a right to abortion.

The United States has stated clearly on many occasions, consistent with the 1994 ICPD Programme of Action and its report, that we do not recognize abortion as a method of family planning, nor do we support this in our women's global assistance initiatives. The U.N. should not put itself in a position of promoting or suggesting a right to abortion, whether it is humanitarian or development work. A new resolution on Women, Peace, and Security offers an opportunity to highlight the great personal risks women face and emphasize efforts to support and protect women peacebuilders.

We are pleased that this resolution includes elements of the Women, Peace, and Security agenda related to peacekeeping because, as we all know, women improve the effectiveness of peacekeeping missions. However, the resolution falls short of putting the full weight and support of the Council behind the women who are putting their lives on the line every day to build peace.

This resolution also leaves out key aspects of the Action of Peacekeeping Declaration of Shared Commitments, which emphasizes that Member States need to collectively ensure that a gender perspective is integrated into all stages of peace processes. While we appreciate that the resolution notes the gender parity strategy, we are disappointed that it failed to highlight the

aspects of the strategy that aim to increase the number of women in the military and police contingents of UN peacekeeping operations.

Individually, we should all be taking steps to address the persistent barriers women peacekeepers face, and to overcome these barriers in our systems. We continue to urge all troop- and police-contributing countries to adopt and promote policies to achieve these objectives.

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b. *Commission on Status of Women*

On March 22, 2019, Ambassador Norman delivered the concluding statement for the United States on the Commission on the Status of Women 2019 Agreed Conclusions. Ambassador Norman's remarks are excerpted below and available at <https://usun.usmission.gov/concluding-statement-on-the-csw-2019-agreed-conclusions/>.

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The United States is concerned by all reports of harassment and bullying during this session, including of the facilitator. This is unacceptable.

In our opening statement, we concluded by saying ‘we hoped the CSW could speak as “one voice for every woman and every girl in this room and around the world.” Unfortunately, this did not happen as the process was deeply flawed including how some decisions were taken on sensitive issues.

Further, the document is unwieldy and retains terms and concepts that remain controversial or unclear among the broader UN membership as others have said which prevented all Members of the Commission to join consensus on this document. Unfortunately, we are not surprised by this outcome. Although the United States was not a member of the Commission, we participated fully in negotiations and are sad to say the clear views of many delegations were not taken into account.

Some of the issues of concern to my delegation remain that the agreed conclusions must take into account the sovereignty of each country. But national sovereignty begins with a respect for human rights. As Secretary Pompeo has said, “nothing can replace the nation-state as the guarantor of democratic freedoms and national interests... We aspire to make the international order serve our citizens—not to control them. America intends to lead—now and always.”

Madam Chair, the United States supports the empowerment of women and girls. That is why my delegation preferred the use of the term “women and girls” where it provided greater clarity and focus in the document.

The United States also strongly supports the irreplaceable primacy of parents and the family they create, which is the foundational institution of society, vital to the health of a nation and human flourishing. As President Trump aptly stated “parents, not bureaucrats, know best how to raise their children and create a thriving society.

Madam Chair, the United States fully supports maternal and child health and informed and voluntary access to family planning. We have stated clearly and on many occasions,

consistent with the 1994 International Conference on Population and Development (ICPD) Program of Action and its report, as adopted by the General Assembly, that we do not recognize abortion as a method of family planning, nor do we support abortion in our women's global assistance. Over the years and among some UN agencies the phrases "sexual and reproductive health", "health care services" and "health services" have acquired connotations that promote abortion and attempt to create a claimed "right" to abortion. As others have said tonight, the United States does not accept these terms as they often encompass abortion as a method of family planning. Moving forward, the Administration seeks to find consensus with a wide group of Member States on other terminology that would better capture our common commitment to meet the health needs of women and adolescents throughout the world, while respecting national policies.

The U.S. supports optimal adolescent health and locally driven, family-centered sex education, provided in a context that increases opportunities for youth to thrive, and which empowers them to avoid all forms of sexual risk.

However, the inclusion of the terms "comprehensive education and sexual and reproductive health information" is unacceptable. The application of this term often normalizes adolescent sexual experimentation, fails to incorporate family, faith and community values, are inconsistent with public health messages that promote "the highest attainable standard of health, and promotes abortion as a solution to a teen pregnancy."

Madam Chair, again, the listing of various international conventions neither changes the current state of conventional or customary international law nor implies that states must join or implement obligations under international instruments to which they are not a party.

The United States continues to emphasize the important role civil society plays both in the promotion and protection of human rights, democracy, and the rule of law, and in providing expertise and advocacy within the UN system. It acknowledges that strong, vibrant civil societies are critical to having strong, successful countries. It acknowledges that governments are more responsive and effective when citizens are free to organize and work together across borders. We recognize the importance of states' commitments to creating an enabling environment for civil society and encourage all states to work together and with relevant regional, UN, and civil society mechanisms in this effort.

We were pleased to see language on indigenous women and girls and women and girls with disabilities. Women and girls belonging to these marginalized groups experience additional discrimination and challenges to social protection from barriers society puts on them. We are also happy to see women and girls with disabilities included in various issues related to social protection in this text—drawing attention here in the CSW to the challenges and discrimination they face moves us one step closer to mainstreaming the human rights of persons with disabilities across the UN system. Separately, my delegation will continue to focus on improving accessibility to the UN.

Madam Chair, the United States continues to believe that each Member State has the prerogative to determine its relationship with other countries, and that this includes restricting that relationship in certain circumstances. Economic sanctions, whether unilateral or multilateral, can be a successful means to achieve foreign policy, national security, and other objectives. In cases in which the United States has applied sanctions, we have used these with specific objectives in mind, including as a means to promote a return to rule of law or democratic systems, to respect human rights and fundamental freedoms, or to prevent threats to international

security. We are within our rights to use sanctions as a tool to achieve noble objectives, and U.S. sanctions are consistent with the Charter of the United Nations and international law.

We would also like to reiterate our understanding of the references to “universal health coverage.” We emphasize that States do not have obligations under international law to achieve universal access to healthcare. We encourage governments and public institutions to strive to improve access to quality universal healthcare and to do so in accordance with their national contexts and policies. The United States will continue to work to improve access to quality healthcare while also recognizing the necessary role of partnerships with the private sector, civil society, faith-based organizations, and other non-governmental stakeholders.

Turning to this document’s “reaffirmation” of the 2030 Agenda, the United States recognizes the Agenda as a global framework for sustainable development that can help countries work toward global peace and prosperity. The United States supports the spirit of the 2030 Agenda for Sustainable Development as a framework for development and will continue to be a global leader in sustainable development through our policies, partnerships, innovations, and calls to action. However, the 2030 Agenda recognizes that each country must work toward implementation in accordance with its own national policies and priorities.

We look forward to participating next year as a Member of the Commission, when we will once again join in discussions on the best path toward removing barriers to the empowerment of women and girls.

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c. *Women’s Global Development and Prosperity (“W-GDP”) Initiative*

In February 2019, President Trump established the Women’s Global Development and Prosperity (“W-GDP”) Initiative. The Third Pillar of the initiative concerns legal reforms aimed at removing barriers for women in the economy. On December 23, 2019, the President signed a memorandum on W-GDP’s Third Pillar, identifying specific areas of focus for legal reforms. The memorandum is available at

<https://www.whitehouse.gov/presidential-actions/memorandum-addressing-legal-societal-barriers-womens-global-development-prosperity/>, and excerpted below.

* * * *

Section 1. Policy. Consistent with National Security Presidential Memorandum-16 of February 7, 2019 (Promoting Women’s Global Development and Prosperity) (NSPM-16), it shall be the policy of the United States to enhance the opportunity for women to participate in, contribute to, and benefit meaningfully and equitably from, economic opportunities as individuals, parents, workers, consumers, innovators, entrepreneurs, and investors.

The United States will pursue this economic and national security objective across the developing world through the Women’s Global Development and Prosperity (W-GDP) Initiative, and its three pillars, as described in NSPM-16. The W-GDP Initiative’s third pillar, Women Enabled in the Economy, specifically addresses the factors that affect women’s ability to reach

their economic potential, including applicable laws, regulations, policies, practices, and social and cultural norms.

Women are frequently discouraged, and often effectively barred, from economic engagement by disproportionate burdens of unpaid care, gender-based violence and abuse, underinvestment in their education, the need for spousal approval for employment, and legal barriers to participation in certain professions. Some of the economic barriers women face arise from laws that limit women's rights to inherit or own property, or enter contracts in their own names, or arise from a failure to enforce laws that establish women's rights in these areas. Reducing those barriers while ensuring women have the needed legal and policy protections requires deliberate efforts by the government, the private sector, and civil society.

Sec. 2. Addressing Legal and Societal Barriers. The heads of executive departments and agencies (agencies) represented on the W-GDP Working Group established by NSPM-16 shall focus their programmatic and diplomatic efforts, as appropriate, on the following five areas of emphasis in support of pillar three of the W-GDP Initiative:

- (a) Lifting restrictions on women's authority to sign legal documents, such as contracts and court documents, and addressing unequal access to courts and administrative bodies for women, whether officially or through lack of proper enforcement.
- (b) Ensuring women's equal access to credit and capital to start and grow their businesses, and prohibiting discrimination in access to credit on the basis of sex or marital status.
- (c) Lifting restrictions on women's possessing and managing property, including limitations on inheritance and the ability to transfer, purchase, or lease property.
- (d) Addressing constraints on women's freedom of movement, including restrictions on obtaining passports on the basis of sex.
- (e) Eliminating barriers that limit working hours, occupations, or tasks on the basis of sex.

Sec. 3. Action Plans. The agencies represented on the W GDP Working Group established by NSPM-16 shall develop action plans for addressing the five areas of emphasis identified in section 2 of this memorandum in developing countries, to be submitted to the President through the Co-Chairs of the W-GDP Working Group established by NSPM-16. Agencies shall provide plan frameworks to the Co-Chairs by February 7, 2020, and final action plans by March 7, 2020.

The action plans should identify each agency's unique capabilities for addressing these areas of emphasis through cooperation with country governments, civil society, the private sector, or non-governmental organizations, and specific goals they will work toward to achieve progress on these objectives. Beginning in 2021, as part of the annual reports required by section 5 of NSPM-16, agencies shall report publicly on the progress made toward the goals identified in the action plans required by this section.

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3. Age

On November 19, 2019, Mr. Mack delivered the U.S. statement on "Follow-Up to the Second World Assembly on Ageing." The statement is excerpted below and available at <https://usun.usmission.gov/statement-on-agenda-item-25-b-follow-up-to-the-second->

[world-assembly-on-ageing/](#). For the November 7 general statement referenced in the U.S. statement, see section A.2 *supra*.

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The United States thanks the G-77 for its resolution on “Follow-Up to the Second World Assembly on Ageing.” And would in particular like to express our appreciation to its facilitator, Argentina. The United States is pleased to join consensus on the resolution.

With regard to this resolution’s references to the 2030 Agenda for Sustainable Development; the world financial and economic crisis; the New Urban Agenda; health care; and economic, social, and cultural rights, we have addressed our concerns in previous statements including in our general statement delivered on November 7. The resolution calls upon member states to act to protect and assist older persons in emergency situations, in accordance with the Madrid Plan of Action and the Sendai Framework. We note that these two documents are voluntary, and that there are other documents which also figure in protecting and assisting persons, including older persons, in humanitarian crisis situations. The Guidelines to Protect Migrants Experiencing Conflict or Natural Disaster and the Guiding Principles on Internal Displacement are two prominent examples.

The United States would like to underscore the importance of promoting the Fundamental Principles and Rights at Work for all workers, including care workers.

Regarding the term “migrants,” which is used in paragraph 18 of the resolution: We note this and the term “migration” are not well-defined in international law. The United States maintains the sovereign right to facilitate or restrict access to its territory, in accordance with its national laws, policies, and interests, subject to its existing international obligations. We refer to the National Statement of the United States of America on the Adoption of the Global Compact for Safe, Orderly and Regular Migration, issued December 7, 2018. Further, the United States is not a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

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4. Disabilities

On June 20, 2019, the United States co-sponsored a resolution, adopted by the UN Security Council, on persons with disabilities in armed conflict. The U.S. statement on the resolution was delivered by Ambassador Norman. The statement is excerpted below and available at <https://usun.usmission.gov/remarks-at-the-adoption-of-a-un-security-council-resolution-on-persons-with-disabilities-in-armed-conflict/>.

* * * *

The United States is pleased to co-sponsor this important resolution on Persons with Disabilities in Armed Conflict. We thank Poland and the UK for their tremendous and tireless efforts to

conduct a thorough and transparent negotiation process. This groundbreaking resolution is a significant step forward in mainstreaming the rights of persons with disabilities across the UN by bringing the issue here, an area of the UN where we have not done enough on this topic.

Our delegation knows firsthand the challenges we face in mainstreaming disability rights across the UN system, including physical access here at Headquarters, so we are pleased to see a reference to the UN Disability Inclusion Strategy in this text. Persons with disabilities are already marginalized in times of peace—their vulnerability and further marginalization increases drastically in armed conflict. Persons with disabilities are disproportionately affected by armed conflict and other situations of violence compared to persons without disabilities. Support mechanisms for accessing basic services such as water, sanitation, food, shelter and health care may be disrupted as well as existing environmental, communication and attitudinal barriers in accessing services may further be exacerbated. Moreover, humanitarian services are often not adapted to ensure that persons with disabilities can access them, and as a result, persons with disabilities are too often left out and left behind.

This short but effective resolution addresses the challenges faced by persons with disabilities as well as concrete actions the Council and the international community can take to address them. The United States especially welcomes the paragraphs on data collection, capacity building, and the meaningful participation and leadership of persons with disabilities during all stages of conflict. We also look forward to more regular briefings by persons with disabilities and their representative organizations as well as humanitarian organizations and other stakeholders—our hope is that this becomes a regular part of the Council’s work, the way that we address other issues such as women and girls in conflict. Thank you very much.

* * * *

On July 26, 2019, the 29th anniversary of the enactment of the Americans with Disabilities Act (“ADA”), the United States announced that it had formally endorsed the Charter on Inclusion of Persons with Disabilities in Humanitarian Action. The State Department press statement making the announcement, available at <https://www.state.gov/on-anniversary-of-americans-with-disabilities-act-u-s-endorses-charter-on-inclusion-of-persons-with-disabilities/>, also includes the following:

These international commitments help ensure that humanitarian assistance, relief, and recovery services are inclusive and accessible—reducing barriers that can leave persons with disabilities open to targeted violence, exploitation, and abuse.

Though challenges and barriers abound, we will continue to work tirelessly to ensure that every person is afforded the opportunity to reach their full potential.

The United States issued an explanatory statement on its endorsement of the Charter on Inclusion of Persons with Disabilities in Humanitarian Action, which follows.

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The United States embraces the goals of inclusion and protection of persons with disabilities in situations of risk reflected in the Charter on Inclusion of Persons with Disabilities in Humanitarian Action. The United States emphasizes its continued commitment to protecting persons with disabilities in humanitarian crises, and promoting the meaningful involvement of persons with disabilities in developing relevant policies and programs. We are pleased to endorse the charter, which was developed in advance of the World Humanitarian Summit held May 23-24, 2016, in Istanbul, Turkey, subject to the following understandings. We endorse the charter with the understanding, as footnote 1 underscores, that the Document is not legally binding, and does not change nor necessarily reflect the United States' or other States' obligations under treaty or customary international law of the United States or other Member States, but rather expresses a common, voluntary political intention and intended course of action. In that regard, and with respect to paragraph 1.5, we note that the obligations under the Convention on the Rights of Persons with Disabilities apply to States Parties to that Convention, of which the United States is not one. We also express our support for the principles in paragraph 1.5 regarding the inclusion of persons with disabilities in humanitarian preparedness and response. As a legal matter, however, we note that this and other paragraphs' references to human rights principles and obligations are imprecisely worded and therefore could give rise to confusion about which legal regime is applicable during armed conflict. Although we also recognize that determining what international law rules apply to any particular government action during an armed conflict is often highly fact-specific, we emphasize that international humanitarian law is the *lex specialis* applicable to situations of armed conflict and, therefore, is the controlling body of law with regard to the conduct of hostilities and the protection of war victims. We read the text of the charter on that basis. We further wish to state our understanding that the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977 do not create specific obligations for States Parties and parties to armed conflict to "respect and protect persons with disabilities" or to "pay attention to their specific needs during armed conflicts" as paragraph 1.5 suggests. Rather, States Parties and parties to armed conflict have general obligations under the 1949 Geneva Conventions and 1977 Additional Protocols, as applicable, for the protection of all war victims, including those who happen to be persons with disabilities. In addition, international humanitarian law also includes specific obligations for the protection of civilians who are wounded, sick, or infirm and of prisoners of war with disabilities, who often might warrant special consideration during conflict situations.

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On November 18, 2019, Adviser to the U.S. Mission to the UN Sofija Korac provided the U.S. general statement on "Implementation of the Convention on the Rights of Persons with Disabilities and the Optional Protocol Thereto." Her statement is available at <https://usun.usmission.gov/us-general-statement-on-implementation-of-the-convention-on-the-rights-of-persons-with-disabilities-and-the-optional-protocol-thereto/>, and excerpted below.

* * * *

The United States is proud to co-sponsor this resolution, particularly given its focus on accessibility this year. We thank New Zealand and Mexico for their good facilitation and their efforts to accommodate all delegations.

We do regret that the final text did not contain references to Security Council resolutions and in particular that we lost the direct reference to Resolution 2475. This groundbreaking resolution is a significant step forward to mainstream the rights of persons with disabilities across the United Nations by bringing the issue here, an area of the UN where we have not done enough on this topic. It is regrettable that some delegations did not want this reference, particularly those who were part of the negotiations in the Security Council and voted in favor of Resolution 2475.

We are pleased with many elements of this resolution including particularly the references to the UN Disability Inclusion Strategy (UNDIS) and the Accessibility Steering Committee chaired by the Republic of Korea and Antigua and Barbuda.

We welcome the report this resolution covers. The topic of this year's resolution was very fortuitous and timely and will enable us to evaluate the implementation of the UNDIS through the report. The steering group developed recommendations in June 2019 in order to increase accessibility across UN headquarters.

My delegation has also been proud to actively participate in these two initiatives. We know firsthand the challenges of mainstreaming disability rights across the UN system, including to improve physical access here at Headquarters.

The United States was also pleased to see the accessible seating proposal adopted within the General Assembly revitalization text passed in September. By creating a system to move delegations' seats to an accessible location, we have already seen firsthand the benefits of this proposal, which allows all members of our delegation to attend all UN meetings in a way that is accessible. Thank you to Mexico and New Zealand for also including this important development in their text.

We also support the extensive focus on this resolution to consider different types of disabilities and the diverse accessibility challenges they face. The decision-making paragraphs in this resolution are also critical: in the true spirit of "Nothing about us without us," persons with disabilities need to be involved in all decision making processes including on accessibility.

While the United States cannot ensure the enjoyment of human rights, because non-state actors can affect their enjoyment, we recognize the importance of promoting and protecting the human rights of persons with disabilities, including children with disabilities. The United States supports enabling persons with disabilities to live independently and participate fully in all aspects of life. We emphasize that States should take appropriate measures to ensure that persons with disabilities have access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.

The United States understands references to the right to privacy to refer to those protections provided under Article 17 of the International Covenant on Civil and Political Rights, and confirms the importance of respect for applicable data protection laws and regulations.

With regard to this resolution's references to reaffirmation of international instruments to which the United States is not a Party and the 2030 Agenda for Sustainable Development, among

other issues, we refer you to our previous statement on Third Committee resolutions delivered on November 7, 2019.

Finally, the United States calls on other countries to redouble their efforts and join us in continuing the positive work to mainstream persons with disabilities fully across the UN and the work of the international community.

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5. Sexual Orientation

a. Annual statement at the Organization of American States

At the 49th regular session of the General Assembly of the Organization of American States (“OAS”), June 26-28, 2019, the United States co-sponsored and endorsed the annual statement on human rights and prevention of discrimination and violence against LGBTI persons, with the following explanation of position (“EOP”). The record of proceedings, OAS Doc. No. OEA/Ser.P/XLIX-O.2, is available at http://scm.oas.org/doc_public/ENGLISH/HIST_19/AG07996E03.doc. The U.S. EOP is included in the “Report of the Rapporteur Of The General Committee,” OAS Doc. No. OEA/Ser.P/XLIX-AG/CG/doc.10/19, available at http://scm.oas.org/doc_public/ENGLISH/HIST_19/AG07965E06.doc.

Protecting the human rights of all persons, including LGBTI persons, has long been and remains the policy of the United States. Around the world, we make a concerted effort to prevent and address violations and abuses of human rights and undue restrictions on fundamental freedoms. That includes threats to human rights and fundamental freedoms faced by LGBTI persons. With this in mind, and in our capacity as chair pro tempore of the OAS LGBTI Core Group, the United States affirms our support for the text “Human rights and prevention of discrimination and violence against LGBTI persons” as contained in the draft resolution “Promotion and Protection of Human Rights,” while noting that we understand “discrimination” as used in this resolution to refer only to government action with respect to the provision of government services and not to governmental action taken in support of legitimate governmental purposes, including the protection of fundamental freedoms and compliance with other laws. We seek to support a resolution that fosters safer, better futures for LGBTI persons across our entire region.

b. UN

On October 24, 2019, Jason Mack delivered remarks at a UN Third Committee dialogue with the independent expert on protection against violence and discrimination based on sexual orientation. Mr. Mack’s remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-third-committee-dialogue-with-the->

[independent-expert-on-protection-against-violence-and-discrimination-based-on-sexual-orientation-an/](#).

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In joining the statement by the UN LGBTI Core Group on October 18, the United States highlighted its commitment to the dignity and equal protection of LGBTI persons under each nation's domestic laws. The United States strongly supports eradicating violence against LGBTI persons, and particularly urges an end to the criminalization of consensual same-sex behavior between adults.

The Statement also addresses protecting LGBTI persons from discrimination. The United States recognizes that the use of the term "discrimination" without a definition is subject to broad-ranging interpretations, and we would welcome a further discussion on that topic. The United States would also welcome a concerted and sustained effort to eliminate systematic barriers that restrict the ability of LGBTI persons to access essential goods and services.

Around the world, LGBTI persons are subjected to violence and bias-motivated crime. All governments should seek to ensure equal protection of every person's fundamental freedoms. No government should support or encourage hostility directed at LGBTI persons under any circumstances.

The underreporting of violence and serious discrimination is deeply concerning. Comprehensive and accurate data collection is essential to formulating policy and to holding officials and others accountable for behavior inconsistent with the equal rights and status of LGBTI persons.

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C. CHILDREN

1. Children in Armed Conflict

Consistent with the Child Soldiers Prevention Act of 2008 ("CSPA"), Title IV of Public Law 110-457, as amended, the State Department's 2018 Trafficking in Persons ("TIP") report lists the foreign governments that have violated the standards under the CSPA, *i.e.* governments of countries that have been "clearly identified" during the previous year as "having governmental armed forces or government-supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit and use child soldiers," as defined in the CSPA. Those so identified in the 2018 report are the governments of Burma, the Democratic Republic of the Congo, Iran, Iraq, Mali, Niger, Nigeria, Somalia, South Sudan, Syria, and Yemen.

The CSPA list is included in the TIP report, available at <https://www.state.gov/trafficking-in-persons-report-2019/>. For additional discussion of the TIP report and related issues, see Chapter 3.B.3. Absent further action by the President, the foreign governments listed in accordance with the CSPA are subject to

restrictions applicable to certain security assistance and licenses for direct commercial sales of military equipment for the subsequent fiscal year. In a memorandum for the Secretary of State dated October 18, 2019, 84 Fed. Reg. 59,519 (Nov. 4, 2019), the President determined:

it is in the national interest of the United States to waive the application of the prohibition in section 404(a) of the CSPA with respect to Afghanistan and Iraq; to waive the application of the prohibition in section 404(a) of the CSPA with respect to the Democratic Republic of the Congo to allow for the provision of International Military Education and Training (IMET) and Peacekeeping Operations (PKO) assistance, to the extent the CSPA would restrict such assistance or support; to waive the application of the prohibition in section 404(a) of the CSPA with respect to Mali to allow for the provision of IMET and PKO assistance, the issuance of licenses for direct commercial sales of military equipment, and Department of Defense (DOD) support provided pursuant to 10 U.S.C. 333, to the extent the CSPA would restrict such assistance or support; to waive the application of the prohibition in section 404(a) of the CSPA with respect to Somalia to allow for the provision of IMET and PKO assistance and DOD support provided pursuant to 10 U.S.C. 333, to the extent the CSPA would restrict such assistance or support; to waive the application of the prohibition in section 404(a) of the CSPA with respect to South Sudan to allow for the provision of PKO assistance, to the extent the CSPA would restrict such assistance or support; and, to waive the application of the prohibition in section 404(a) of the CSPA with respect to Yemen to allow for the provision of PKO assistance and DOD support provided pursuant to 10 U.S.C. 333, to the extent the CSPA would restrict such assistance or support ...

2. Rights of the Girl Child

On November 15, 2019, Courtney R. Nemroff, acting U.S. representative to the UN Economic and Social Council, delivered the U.S. statement on “The Girl Child.” Her statement is excerpted below and available at <https://usun.usmission.gov/united-states-statement-on-agenda-item-66-a-the-girl-child/>.

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We thank Tanzania for its resolution, “The Girl Child.” The United States joins consensus today.

With regard to this resolution’s references to the 2030 Agenda for Sustainable Development; the Addis Ababa Action Agenda; the UN Framework Convention on Climate Change; and economic, social, and cultural rights, including those involving education and health, we addressed our concerns in two previous statements: one delivered November 7th on

Third Committee resolutions, and another delivered October 10th concerning the SAMOA Pathways political declaration.

The United States defends human dignity and supports access to high-quality health care for women and girls across the lifespan. We do not accept references to “sexual and reproductive health,” “sexual and reproductive health-care services,” “safe termination of pregnancy,” or other language that suggests or explicitly states that access to legal abortion is necessarily included in the more general terms “health services” or “health care services” in particular contexts concerning women. As President Trump has stated, “Americans will never tire of defending innocent life.” Each nation has the sovereign right to implement related programs and activities consistent with their laws and policies. There is no international right to abortion, nor is there any duty on the part of States to finance or facilitate abortion. Further, consistent with the 1994 International Conference on Population and Development Programme of Action and the 1995 Beijing Declaration and Platform for Action, and their reports, we do not recognize abortion as a method of family planning, nor do we support abortion in our global health assistance.

The United States supports, as appropriate, optimal adolescent health and locally-driven, family-centered sex education provided in a context that increases opportunities for youth to thrive, and which empowers them to avoid all forms of sexual risk.

However, inclusion of the terms “comprehensive education . . . with information on sexual and reproductive health” is unacceptable. The application of these terms often normalizes adolescent sexual experimentation, fails to incorporate family, faith and community values, and is inconsistent with public health messages that promote the highest attainable standard of health.

The United States notes, with regard to PP 22, that harassment, while condemnable, is not necessarily physical violence. To the extent that OP 24 refers to school-related punishment, we read it to refer to punishment that rises to the level of child abuse, in line with domestic law.

With respect to PP16, OP23, and OP25, we prefer the phrase “child sexual abuse material or child sexual abuse imagery, often referred to or criminalized as child pornography” over “child pornography and other child sexual abuse material.” The United States also has concerns regarding the use of the term “child prostitution” in PP16 and OP23. Any involvement of children in prostitution is non-consensual and criminal. The United States prefers to use the terms ““child sex trafficking,” the “commercial sexual exploitation of children” or “exploitation of children in prostitution”.

On OP 23, the wording “trafficking and forced migration” seem to imply movement. The crime of trafficking in persons, however, as defined in the widely ratified Trafficking protocol, is not movement based.

Finally, regarding OP 18, we understand that when the resolution calls on States to enact and enforce laws concerning the minimum age of consent and marriage, this is done in terms consistent with our respective federal and state authorities.

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3. Optional Protocols to the Convention on the Rights of the Child

a. *Sale of Children, Child Prostitution, and Child Pornography*

See Chapter 4 for discussion of the *Park* case, which involves the application of the U.S. statute implementing the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

On May 6, 2019, the United States provided comments on the draft guidelines on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. Excerpts follow (with footnotes omitted) from the May 6 submission.

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The United States appreciates the Draft Guidelines’ identification of several important issues concerning implementation of the OPSC. Much of the discussion in the Draft Guidelines reflects sound practices that can promote effective implementation of obligations contained in the OPSC. In addition, we appreciate the Committee’s important role in assisting States parties in their efforts to implement obligations under the OPSC and making nonbinding recommendations on making such implementation more effective. In an effort to support these useful efforts, the United States offers numerous recommendations and suggested language for inclusion in the Draft Guidelines. These recommendations and suggested language do not represent acceptance of the Draft Guidelines in whole or in part or that the United States is indicating its approval of future work on the Draft Guidelines.

In a number of instances the Draft Guidelines contain observations on matters beyond the Committee’s mandate. Although the OPSC does not address the Committee’s mandate in detail, Article 43(1) of the Convention on the Rights of the Child (CRC) indicates generally that the Committee is established “for the purpose of examining the progress made by States parties in achieving the realization of the obligations undertaken” in the CRC. Assuming this mandate also applies to the OPSC, its focus on “the obligations undertaken” in the OPSC would mean that the Committee’s mandate is limited to matters in which the OPSC creates obligations for States parties, and does not extend to other matters involving the protection of children as to which the OPSC does not establish obligations. In addition, it is important to bear in mind that the Committee does not have the mandate or authority to issue authoritative interpretations of the CRC and its Optional Protocols. This authority rests with the States parties to these treaties, and the Committee’s views, while meriting due consideration, are not binding on States parties.

In a number of places the Draft Guidelines express views—often in extraordinarily prescriptive terms—on topics beyond the bounds of State parties’ obligations under the OPSC. Examples of such overreach range from statements that indicate general measures of implementation that are both prescriptive and overreach by requiring training on gender identity by caregivers (paragraph 15); to double criminality “should not be applied” to crimes covered by the OPSC (paragraph 88); to the assertion that specialized training for police, lawyers, prosecution, and judiciary professionals “must” include online issues (paragraph 41). More broadly, sections of the Draft Guidelines relating to comprehensive policy and strategy;

coordination, monitoring, and evaluation; allocation of resources; and training (sections III-C, D, E, and G, respectively) go far beyond the scope of OPSC obligations, recommending broad policy reforms for States parties in addressing child sexual exploitation. There is no question that broad policy recommendations such as these may have merit in the broader context of addressing child sexual exploitation; indeed, many of the Committee's recommendations reflect existing U.S. practice or U.S. views on what constitutes best practices. However, such recommendations, particularly when couched in prescriptive and mandatory terms, overstep the bounds of the Committee's role in relation to the OPSC. To be clear, the Committee is not a legislative body. Its focus should be limited and not prescriptive.

The Committee also exceeds its mandate in suggesting that specific terms adopted by the States parties for use in the OPSC are inappropriate for use in domestic legislation implementing the OPSC. In this regard, the Committee's role is to address itself to the obligations contained in the text of the OPSC adopted by the States parties, and not to attempt to rewrite what the States parties have written. The United States is supportive of States reconsidering the dated terminology used to describe child sexual exploitation, such as "child prostitution" and "child sex tourism," in domestic legislation and elsewhere. However, including such recommendations in these nonbinding Draft Guidelines related to implementation of the OPSC's obligations could give the misimpression that they relate to, or are required in connection with, States parties' obligations under the OPSC. The Committee is not empowered to change these legal terms of art, which have specific definitions laid out in the OPSC itself; rather, it is for States parties to amend the OPSC if they believe that doing so is appropriate to modernize its terminology or for other reasons.

In other instances, the Draft Guidelines misstate or advance flawed interpretations of obligations established in the OPSC. For example, in paragraph 103, the Committee purports to "remind" States parties of their obligation to ensure that criminal justice proceedings "are carried out in the best interest of the child." Article 8 of the OPSC, in contrast, requires only that States parties "ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the [OPSC], the best interest of the child shall be a *primary consideration*." Moreover, the Draft Guidelines go on to state "this [obligation] includes" a variety of measures, including providing free legal aid. Many of these measures may be commendable, but none of them are required as a matter of law under the OPSC. Such misstatements, whether deliberate or inadvertent, undermine the Committee's credibility on this important topic.

More generally, the United States disagrees with the Committee's characterization of the OPSC as a "living instrument" to which a "dynamic interpretation" is to be applied. The OPSC is a treaty which, in accordance with international law, is to be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in light of its object and purpose. While there may be occasion to apply the OPSC in a variety of factual settings as situations implicating its provisions arise over time, absent amendment, the text and appropriate interpretation of the treaty's provisions are not subject to change. The United States will continue to view the text of the OPSC—rather than these Draft Guidelines—as setting forth the United States' obligations, in conjunction with the reservations, understandings, and declarations that accompanied U.S. ratification of the OPSC. The United States reiterates that the foundation of international law is State consent, and that international law has binding force only to the extent that it is based on that consent.

The United States further notes the complexities raised by the assumption underlying the Draft Guidelines that States parties to the OPSC are also all parties to the CRC. For example, Paragraph 14 of the Draft Guidelines states that “measures of implementation of the provisions in the OPSC should fully comply” with the CRC. The United States is not party to the CRC and emphasizes that such references to implementation of the OPSC complying with the CRC, or the obligations therein, do not apply to the United States.

Beyond concerns regarding the scope and mandate, the United States notes that in several places the Draft Guidelines raise serious federalism concerns. The United States does not have centralized law enforcement, or centralized law-making in the way the Draft Guidelines contemplate, and would have difficulty implementing several suggestions, including those related to legislation, prosecution, sentencing, data collection, and analysis. In addition, aspects of the Draft Guidelines could conflict with U.S. obligations under international human rights law and the U.S. Constitution. This is a particular concern with regard to restrictions on speech and other expression, which is generally protected by Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and the First Amendment of the U.S. Constitution.

The United States prefers use of the terms “women and men” and “girls and boys” to “gender” in appropriate situations where they provide greater clarity and focus in the Draft Guidelines

Finally, the United States notes that the Draft Guidelines could benefit from additional discussion of the OPSC in the context of new threats to which its obligations may apply. For example, other than in passing (paragraphs 2–3), the Draft Guidelines do not address the Dark Net (or Darknet); nor do the Draft Guidelines discuss newer forms of child sexual exploitation such as live streaming of abuse.

Some additional examples of the concerns raised above, together with comments on some more specific matters, relate to the following paragraphs:

Paragraph 15 provides guidance on the drafting process for legislative and policy measures and gender training for caregivers. We suggest omitting the last sentence of paragraph 15 and replacing it with the following: States parties should make best efforts to consider the unique needs of the child during the drafting process of legislative and policy measures, and should make efforts to include the representative views of all vulnerable children, taking into consideration their age and maturity to gauge the level of participation by the child.

Paragraph 18 and Paragraph 54 both emphasize that children should not be prosecuted for any conduct related to their exploitation, but in both instances, the phrasing is awkward. In addition, Paragraph 18 uses the phrase “trafficked across borders,” which implies that trafficking in persons is strictly a movement-based crime that only occurs across international borders. To more clearly express the point and avoid any inaccurate implications regarding trafficking, we suggest the following edits: Paragraph 18: “The Committee urges States parties to ensure that **the child victims of the offenses set forth in the OPSC are not inappropriately arrested or prosecuted for unlawful acts committed as a direct result of their exploitation.**” Paragraph 54 (final sentence): “The Committee underscores that all children who are sexually exploited in prostitution shall be considered victims, **and should not be inappropriately arrested or prosecuted for unlawful acts committed as a direct result of their exploitation.**”

Paragraphs 29, 30, 31, 42, 95, 97, 102, 103, and 110 add the awkward and unclear phrase “child and gender-sensitive” before other descriptive terms. However, we urge a

clarification that is more sensitive to all children: **“age appropriate information, being sensitive to the age and sex of the child”**.

Paragraph 29(c) suggests that States parties should “ensure that all persons, especially those caring for children, have adequate knowledge of the different forms of sexual exploitation and abuse of children ...” The United States questions how it is possible to “ensure” all persons caring for children have access to relevant information and comply. Some type of a licensing system might address this point, but there are unlicensed caregivers.

In connection with the Committee’s suggestions in paragraph 29(d), we recommend broadening the last sentence as follows: “Information should be provided in collaboration with **instructors (with parental consent), parents, and caregivers.**” We also suggest adding a new subparagraph to paragraph 29 following (a) on dissemination and awareness-raising on the perpetrators of the crimes (the demand) and the impact of trauma inflicted on the victims and survivors. The new subparagraph (b) would read: **(b) Raise awareness about the perpetrators of the crimes to reduce the demand for the sexual exploitation of minors. Anti-demand efforts should address online exploitation, street-based exploitation, and exploitation by family members, community members, or other persons of trust.**

In paragraph 30, we recommend adding a subparagraph (e): **“Encourage training and effective responses for victims of offenses proscribed by the OPSC include services that are both victim-centered and survivor-led.”**

In paragraph 31(c), we recommend changing “deal with” to **“identify and respond to.”** As edited, the subparagraph would read: “Train all police units investigating child sexual exploitation and abuse offences, including cases associated with the use of ICTs, as well as prosecutors and the judiciary, to **identify and respond to** child victims in a child- and gender-sensitive manner and

In paragraph 33, we suggest changing the phrase “particularly with regard to complex notions related to masculinity and gender, which” to **“that serve to foster, normalize, or.”**

In paragraph 34, we recommend removing the unclear phrase “with due attention to the gender dimension” and editing paragraph 34(b) as follows: “Provide social protection and financial support, including income generating activities, to enable the economic empowerment of vulnerable **children, youth, and their** families.” The term “victim-centered” refers to an approach to practice that focuses on the safety, security, stability, and tailored needs of the victim rather than the roles, expectations, or desires of the service provider(s). In a victim-centered approach, the victim’s wishes, safety, and holistic well-being take priority in all matters and procedures. U.S. Department of Justice Office of Justice Programs, *Human Trafficking Task Force e-Guide: Strengthening Collaborative Responses*, available at <https://www.ovcttac.gov/taskforceguide/eguide/1-understanding-human-trafficking/13-victim-centered-approach/>. The term “survivor-led” refers to an approach that equips and empowers survivors to take a leadership role in their own life and in the larger movement against the form of abuse and/or exploitation they have endured and overcome. See Karen Countryman-Roswurm & Bailey Patton Brackin, *The Journey to Oz: How Practice, Research, and Law Have Been Used to Combat Domestic Minor Sex Trafficking in Kansas*, 5(2) JOURNAL OF APPLIED RESEARCH ON CHILDREN: INFORMING POLICY FOR CHILDREN AT RISK (2018).

In paragraph 43, the Draft Guidelines urge “States parties to ensure that internet service providers control, block and ultimately remove” illegal content. In the United States, the

government is generally prohibited from requiring private parties to monitor speech. Moreover, it is very difficult to remove this type of content from the internet once it is posted, not to mention the other means by which a subject could send or share the material. If possible, this statement should be qualified so that States parties should “ensure, **consistent with their national legal systems**, that internet service providers ...”

Paragraph 51 is not consistent with the OPSC and the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and should be clarified. Through both of these Conventions, it should not be possible for an adoption that followed “applicable rules of international law” to have involved sale of a child.

Paragraph 52 should omit “and to ensure that the best interests of the child is upheld at all times.” The term is highly subjective and open to interpretation. In addition, the stated purpose of the Draft Guidelines is to help States prevent the sale of a child; they are not aimed at addressing broader child welfare issues, child custody determinations, or parental responsibility proceedings, or societal determinations of children’s rights, and do not have the aim of emancipating minors or undermining parents’ rights. The “best interests of the child” standard is not directly related to preventing the sale of a child and is, in particular, not appropriate for use in all phases of the regulation of surrogacy.

In paragraph 54, we believe that the Draft Guidelines intend to say that “survival sex” is a form of child prostitution within the meaning of the OPSC, but the language could be clearer in that regard. We propose the following edits to avoid confusion: “Moreover, such remuneration or consideration can be paid or given to any third person, and the child does not receive anything **directly**. Or the ‘consideration’ **can be provided directly to the child in the form of** basic survival needs such as food or shelter.”

Paragraphs 61 to 63 should be qualified to indicate that States parties should define their laws or prohibit those activities “consistent with their national legal systems.” In the United States, we can only criminalize activity related to drawings, cartoons, etc., if they are obscene as defined under our law. Anything that does not meet the obscenity standard is protected speech under our Constitution, and therefore cannot be the basis of criminal prosecution.

Paragraph 62: “... urges States parties to prohibit, by law, child sexual abuse material in any form including when such material represents realistic representations of non-existing children.” In the United States, federal law provides that it is illegal to create, possess, or distribute a visual depiction of any kind, including a drawing, cartoon, sculpture or painting, that depicts a minor engaging in sexually explicit conduct and is obscene. However, visual depictions (CGI, anime, etc.) where there is not a “real” child are typically protected by the First Amendment (unless the visual depictions are obscene) and the United States’ obligations under the ICCPR. We suggest editing the paragraph as follows: “... urges States parties to prohibit, by law, **consistent with their national legal systems**, child sexual abuse material in any form including when such material represents realistic representations of non-existing children.”

Paragraph 63 states that “‘simulated explicit sexual activities’ should be interpreted as including any material, online or offline, that depicts or otherwise *represents* any person appearing to be a child engaged in real or simulated sexually explicit conduct and realistic and/or virtual depictions of a child engaged in sexually explicit conduct.” As noted above, such visual depictions are typically protected by the First Amendment (unless the visual depictions are obscene) and the United States’ obligations under the ICCPR. As a result, this language could complicate bilateral law enforcement engagement where other States expect the United States to

investigate or prosecute leads based on activity that is not criminal and in fact protected expression in the United States. We suggest editing the paragraph as follows: “‘simulated explicit sexual activities’ should be interpreted, **consistent with their national legal systems**, as including any material, online or offline, that depicts or otherwise *represents* any person appearing to be a child engaged in real or simulated sexually explicit conduct and realistic and/or virtual depictions of a child engaged in sexually explicit conduct.”

Paragraph 70 refers to self-generated sexual content, such as sexting. The United States notes for purposes of this paragraph and elsewhere, that in States parties such as the United States, the production by a child of self-generated sexual content/material representing herself or himself can be a criminal offense.

Paragraph 92 states that “... the Committee encourages States parties to establish universal jurisdiction for all offences covered by the OPSC ...” We note that the term “universal jurisdiction” is an imprecise term that can mean different things in different countries. The United States Criminal Code does contain some provisions that allow the U.S. government to exercise jurisdiction over those present in the United States for certain crimes committed in other territories; however, enacting this kind of statute is not always appropriate. Paragraph 92 should be discretionary under the Draft Guidelines. Therefore, we recommend editing the language to read: “... the Committee encourages States parties to **consider** establishing universal jurisdiction for all offences covered by the OPSC ...”

Paragraph 93(a) should be edited to recognize that domestic law in some countries requires a bilateral treaty: “As a consequence, as far as these offences are concerned, and in accordance with article 5.2 OPSC, States parties do not need to have an extradition treaty with other States parties to be able to grant an extradition request, **except for those countries in which domestic law requires a bilateral treaty.**”

In paragraph 98, the Draft Guidelines urge States parties “institute a formal ‘best interests of the child’ determination process, in accordance with article 12 CRC and General Comment No. 14, to ensure that the criminal prosecution of an alleged offender does not adversely affect the health and recovery of the victim.” We recommend editing the sentence to urge States parties to “**incorporate** a ‘best interests of the child’ **consideration into the** process, in accordance with article 12 CRC and General Comment No. 14, **in an effort to protect against** adversely affecting the health and recovery of the victim.”

In paragraph 103(d), the Draft Guidelines urge States parties to avoid calling children to testify in court. The Confrontation Clause in the U.S. Constitution—which provides that a criminal defendant generally has the right to have witnesses against him or her testify in his or her presence—prevents or limits our ability to take many of the Committee’s recommended approaches. We again suggest that the Draft Guidelines clarify that States parties should take actions to the extent they are consistent with their domestic laws.

Paragraph 119 mentions supporting alliances such as the Virtual Global Taskforce (VGT). We note that VGT rules limit participation by allowing only one law enforcement representative per country. The same paragraph encourages States parties to establish a global task force to combat child sexual exploitation. We note that since 2014, the U.S. Federal Bureau of Investigation has overseen a task force that appears to meet this description. The Violent Crimes Against Children International Task Force currently includes 56 active members from 46 countries.

Finally, the United States appreciates the Draft Guidelines’ discussion of “child sex tourism,” but notes that the Draft Guidelines place far too much emphasis on travel, without

any acknowledgement of an increasingly serious concern: expatriates, or offenders who move abroad and never return (sometimes moving from country to country without returning to their home country). Some minor edits could incorporate this idea into the Draft Guidelines.

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b. *Children Born from Surrogacy Arrangements*

On June 21, 2019, the United States provided comments to the Special Rapporteur on the Sale and Sexual Exploitation of Children. The U.S. comments address the Special Rapporteur's upcoming thematic report, intended to develop "safeguards for the protection of the rights of children born from surrogacy arrangements." The U.S. comments appear below (with footnotes omitted).

* * * *

The United States takes seriously our obligations under the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC). As a threshold matter, the United States respectfully disagrees with the Special Rapporteur's assertion that the OPSC creates obligations related to surrogacy. Because surrogacy, as a practice, does not involve any of the forms of exploitation included in Article 3 of the OPSC, it is the view of the United States that surrogacy falls outside the scope of the OPSC. Nonetheless, the United States has among the world's strongest laws aimed at protecting and advancing the rights of children without distinction of any kind, and these apply equally to children born via surrogacy arrangements.

No federal legislation exists or is pending in the United States regarding payments to surrogate mothers, as such. Generally, family law matters—including the establishment, recognition, and contestation of legal parentage—are matters controlled by state law in the United States, and state laws regarding surrogacy vary widely. Surrogacy is illegal in some states and is expressly permitted and regulated in others. Thirty-one states have laws that in some fashion address surrogacy. Michigan and New York, as well as Washington, D.C., have criminalized surrogacy. Other states have laws that provide that surrogate contracts are invalid. Still other states set up elaborate mechanisms to approve contracts or to regulate the payment of fees to surrogates. In the states that permit surrogacy agreements, rules and regulations may address issues such as the marital status of the parties, the age of the parties, their medical conditions, the method of obtaining informed consent, the content of surrogacy agreements, the type of compensation that is permitted for surrogates, and the processes required to obtain a parentage order or a birth certificate.

The question of whether or how a "best interests of the child" standard is used varies by U.S. state and by the type of proceeding that is involved. In addition, ... the United States is not party to the [Convention on the Rights of the Child or] CRC, so it does not have an international law obligation to make the best interests of the child a primary consideration in all actions involving children. However, as a general matter, States would use the "best interests of the child" standard in proceedings that involve custody, care, or guardianship of a child, not the

establishment of parentage. Parentage is established by operation of state law, based on factors such as the person who gave birth to the child, whether the child was born in wedlock, and whether a father executes a valid affidavit of paternity, among other factors.

As discussed above, surrogacy and other family law matters are governed by state law in the United States and laws vary widely. Because of the lack of federal oversight, data on surrogacy-related matters is limited. Fertility clinics in the United States are required to report certain data on assisted reproductive technology (ART) cycles performed to the Center for Disease Control and Prevention (CDC) within the U.S. Department of Health and Human Services (HHS). Fertility clinics reported to HHS/CDC that in 2016, ART cycles resulted in 65,996 live births in the United States. However, these ART statistics do not isolate surrogacy births from other types of in vitro fertilization (IVF) procedures. A report published by the CDC found that between 1999 and 2013 about two percent of all ART cycles used a gestational carrier. State law would govern any licensing, certification, or registration of surrogacy “intermediaries.”

On the question of children born from a surrogacy arrangement who enter the United States, generally a child born overseas is permitted to enter the United States if she or he has been documented as a U.S. citizen or has a valid visa. If the U.S. citizen parent or parents of a child meet the statutory requirements for transmission of citizenship to a child born overseas, or if they are eligible to apply for immigration benefits for their child, then the United States will issue the child the relevant documentation regardless of whether the parents used a surrogate or other forms of ART. In general, if parentage was established properly in the country where the child was born, U.S. officials do not question the legal parentage of the child. We are not aware of any cases where the legal parentage of a child born through a legal surrogacy arrangement was not recognized in the United States.

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4. Child Labor

On July 25, 2019, Jason Mack provided the U.S. explanation of position on the adoption by the General Assembly of a resolution establishing an international day for the elimination of child labor. The explanation of position is excerpted below and available at <https://usun.usmission.gov/explanation-of-position-on-adoption-of-ga-plenary-resolution-establishing-an-international-day-for-the-elimination-of-child-labor/>.

* * * *

The United States joins consensus on this resolution on the International Year for the Elimination of Child Labor. We envision a world in which all children are free from deprivation, violence, and danger, regardless of religious affiliation, ethnicity, disability, or other factors.

The United States does not, however, share the view that the Convention on the Rights of the Child “constitutes the standard” for child protection.

We join consensus on this resolution with the express understanding that it does not imply that States must become parties to instruments to which they are not a party, or implement

obligations under human rights instruments to which they are not a party, including, in the case of the United States, the Convention on the Rights of the Child. Furthermore, to the extent that it is implied in this resolution, the United States does not recognize the creation of any new rights we have not previously recognized; the expansion of the content or coverage of existing rights; or any other changes to its or other States' obligations under the current state of treaty or customary international law or under the current state of domestic law that implements such treaty or customary international law.

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D. SELF-DETERMINATION

On November 19, 2019, Mordica Simpson, adviser for the U.S. Mission to the UN, delivered a statement on the right of peoples to self-determination. Her statement follows and is also available at <https://usun.usmission.gov/statement-on-agenda-item-69-universal-realization-of-the-right-of-peoples-to-self-determination/>. For the November 7 general statement referenced below, see section A.2 *supra*.

The United States recognizes the importance of the right of self-determination of peoples and therefore joins consensus on this resolution. We note, however, as frequently stated by the United States and other delegations, that this resolution contains many misstatements of international law and is inconsistent with current state practice.

We also refer to our general statement made on November 7.

E. ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

1. Safe Drinking Water and Sanitation

On November 18, 2019, Brian Kelly, adviser to the U.S. Mission to the UN, delivered the U.S. statement on the human rights to safe drinking water and sanitation. Mr. Kelly's remarks are excerpted below and available at <https://usun.usmission.gov/united-states-statement-on-agenda-item-70-the-human-rights-to-safe-drinking-water-and-sanitation/>. For the November 7 general statement referenced below, see section A.2 *supra*.

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The United States recognizes the importance and challenges of meeting basic needs for water and sanitation to support human health, economic development, and peace and security. The United States is committed to addressing the global challenges relating to water and sanitation and has made access to safe drinking water and sanitation a priority in our development assistance efforts.

In joining consensus on this resolution today we reiterate the understandings in our statements in New York at the UN General Assembly's meeting on this topic in 2015 and 2017, as well as our explanations of position on the Human Rights Council's September 2012, 2013, 2014, and 2016 resolutions on the human right to safe drinking water and sanitation. Our previously stated concerns extend to Human Rights Council resolution 39/8 of 5 October 2018, which we do not affirm.

The United States joins consensus with the express understanding that this resolution, including its references to human rights to safe drinking water and sanitation, does not alter the current state of conventional or customary international law, nor does it imply that states must implement obligations under human rights instruments to which they are not a party. The United States is not a party to the International Covenant on Economic, Social, and Cultural Rights, ICESCR, and the rights contained therein are not justiciable in U.S. courts. As the ICESCR provides, each State Party undertakes to take the steps set out in Article 2(1) "with a view to achieving progressively the full realization of the rights." We interpret references to the obligations of States as applicable only to the extent they have assumed such obligations, and with respect to States Parties to the Covenant, in light of its Article 2(1).

We disagree with any assertion that the right to safe drinking water and sanitation is inextricably related to or otherwise essential to enjoyment of other human rights, such as the right to life as properly understood under the International Covenant on Civil and Political Rights (ICCPR). To the extent that access to safe drinking water and sanitation is derived from the right to an adequate standard of living, it is addressed under the ICESCR, which imposes a different standard of implementation than that contained in the ICCPR. We do not believe that a State's duty to protect the right to life by law would extend to addressing general conditions in society or nature that may eventually threaten life or prevent individuals from enjoying an adequate standard of living.

In addition, while the United States agrees that safe water and sanitation are critically important, we do not accept all of the analyses and conclusions in the Special Rapporteur's reports mentioned in this resolution. We would also note, with respect to preambular paragraphs 28 and 29, that the potential impacts from climate change are only one factor among many that affect access to safe drinking water and sanitation. The United States supports a balanced approach that promotes economic growth and improved energy security while protecting the environment.

With regard to this resolution's references to the 2030 Agenda for Sustainable Development and the outcome documents of ICPD and Beijing review conferences, the United States addressed its concerns in the statement delivered on November 7. We restate our position here that the United Nations must respect the independent mandates of other processes and institutions, including trade negotiations, and must not involve itself in resolutions and actions in other forums, including at the World Trade Organization. The UN is not the appropriate venue for these discussions, and there should be no expectation or misconception that the United States would heed decisions made by the General Assembly on these issues. This includes calls that undermine incentives for innovation, such as technology transfer that is not voluntary and on mutually agreed terms.

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2. Food

On November 18, 2019, Daniel Thompson, adviser for the U.S. Mission to the UN, delivered the U.S. statement on the right to food. The statement is excerpted below and available at <https://usun.usmission.gov/statement-on-agenda-item-70-b-the-right-to-food/>.

* * * *

This Committee is meeting at a time when the international community is confronting one of the most serious food-security emergencies in modern history. Hunger is on the rise for the third year in a row, after a decade of progress. Over 35 million people in South Sudan, Somalia, the Lake Chad Basin, and Yemen are facing severe food insecurity, and in the case of Yemen, potential famine. The United States remains fully engaged and committed to addressing these conflict-related crises.

This resolution rightfully acknowledges the hardships millions of people are facing, and importantly calls on States to support the emergency humanitarian appeals of the UN. However, the resolution also contains many unbalanced, inaccurate, and unwise provisions the United States cannot support. This resolution does not articulate meaningful solutions for preventing hunger and malnutrition, or avoiding their devastating consequences.

The United States supports the right of everyone to an adequate standard of living, including food, as recognized in the Universal Declaration of Human Rights.

Moreover, we note that as the International Covenant on Economic, Social, and Cultural Rights provides, each state party undertakes to take the steps set out in Article 2(1) “with a view to achieving progressively the full realization of the rights.”

The United States is concerned that the concept of “food sovereignty” could justify protectionism or other restrictive import or export policies that will have negative consequences for food security, sustainability, and income growth. Improved access to local, regional, and global markets helps ensure food is available to the people who need it most and smooths price volatility. Food security depends on appropriate domestic action by governments, including regulatory and market reforms, that is consistent with international commitments.

We also do not accept any reading of this resolution or related documents that would suggest that States have particular extraterritorial obligations arising from any concept of a “right to food,” which we do not recognize and has no definition in international law.

For these reasons, we request a vote and we will vote against this resolution

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F. LABOR

On November 20, 2019, Assistant Secretary of State for Democracy, Human Rights, and Labor Robert A. Destro delivered remarks at the centennial conference of the International Labor Organization on the impact of rights in the world of work. His remarks are excerpted below and available at <https://www.state.gov/remarks-on-the-impact-of-rights-in-the-world-of-work/>.

* * * *

As we look to the second century of ILO's service, we must consciously remind ourselves that, while "production systems are increasingly fragmented and spread over many countries and regions," the work gets done by actual human beings who live and work in local communities defined by kinship, language, faith, and culture. An assault on these aspects of our humanity is an assault on labor.

Our tendency to focus on labor "as a commodity" also conditions our thinking—so it is appropriate, on occasions like this one, to remind ourselves that men and women are not economic units. Human beings do not always make perfectly rational decisions to maximize utility or profit. We strike balances between and among the demands of our own talents and needs, and those of our families, communities, and co-workers. Men and women are more accurately described as members of the species *Homo faber*. Man, the maker. Men and women build things, we interact with our environments, and we create ideas, buildings, works of art and literature, useful objects, and things of beauty. We create, not solely for ourselves, but also for the enjoyment and comfort of others. We can do this if, and only if, each of us is free, as Michelangelo put it, to see the angel in the block of marble, and "carv[e] until [we] set him free."

This is the human face of labor, and it is the aspect of the labor market regularly ignored in the debate over the merits of a global economy. We neglect the human factor at our peril. Real human communities are decimated when governments and business prioritize the efficiency of global supply chains over the welfare of their own people.

The theme of today's event shows us the way forward: "Creating a Brighter Future of Work, Together." As a labor lawyer, I especially like that last word—*Together*. It resonates. It is at the heart of the ILO's model. The ILO's tripartite governance structure reflects its founders' understanding that human flourishing and peace depend on our working together for the common good: workers, employers, and communities alike. We are bound together.

The greatest challenge facing the ILO in its second century will be to navigate the treacherous cross-pressures that define the politics of the modern economy. We can only do that together.

As a multilateral organization, the ILO is pressed by donor and member states. Some of that pressure can certainly be justified on the grounds that accountability requires pressure, but much of it cannot. Unless we focus clearly, we will not see how member and donor nations will try to shift the ILO's vision for the future.

To whose vision of "the good" will the ILO be accountable in the next hundred years? Powerful economic interests? Or the needs of ordinary workers around the globe?

We will know the answer by looking at the priorities of ILO leadership. If their priority is the freedom of workers to flourish, ILO's leadership will become constant and highly vocal advocates for the freedom of individuals, labor associations and local communities.

They will also be advocates for the democratic systems that protect those freedoms.

The founders of the ILO explicitly recognized the connection between strong labor rights and human flourishing. They recognized that democracy was the system most capable of protecting those aims. They understood, from the bitter experiences that necessitated the ILO's creation, that the strongest, most brutal repression of labor rights happens in nations where the

interests of leaders, driven by ideology or self-interest, stand squarely at odds with the vision of the ILO.

At this, the celebration of the ILO's second century, we must stand firmly against any and all efforts [to] accommodate the aims or practices of such nations and ideologies. Technical assistance is important, but it is not enough. Moral leadership and example must come first.

The ILO's record speaks for itself. Some of its greatest achievements on behalf of workers' rights have come when it stood with workers against repressive regimes seeking to crush those seeking freedom and democratic change.

ILO supported Solidarity in Poland. By doing so, it empowered the Polish people and gave new hope to the Polish nation.

ILO supported efforts to end the inhuman and repressive regime of apartheid in South Africa. By doing so, it gave South African labor leaders and workers the freedom to envision a better future for themselves and their children.

It is no exaggeration to say that the ILO's successes have changed the course of millions of lives and the futures of nations. For exactly the same reason, ILO's efforts to challenge repression must continue.

This year, the ILO's Commission of Inquiry helped to spotlight the attacks on workers and employers by the former Maduro regime in Venezuela. I urge this body to keep up that international pressure. The people of Venezuela are counting on us.

In Iran, the ILO must further elevate the voices of striking truckers and teachers and leverage its influence to protect them—until the Iranian regime realizes their oppressive tactics are futile and fruitless.

And in Xinjiang, China, ethnic Uighurs and members of other minority groups are subjected to forced labor in violation of international standards, Chinese law, and fundamental human rights. The Communist Party calls this “vocational training.” It isn't.

What is happening in Xinjiang is an affront to the fundamental principles of the ILO. The ILO must stand against such practices wherever they occur. The United States will stand with the ILO—in word and deed.

Last month, United States Customs and Border Protection sent a powerful message when it announced a Withhold Release Order for garments produced at a factory in Xinjiang that relies on forced labor. Goods produced by forced labor have no place in the American market or in any other.

We call on the ILO to continue to stand with us on this issue. The challenge of forced labor, among the many other challenges the ILO will face in its second century, will test the resolve of its leaders as never before. How it responds to this challenge will speak volumes about its institutional commitment to its founding principles.

Authoritarian systems that crush their own people will pressure that ILO to remain silent, and, if it does not, attempts to dominate and control will follow. ILO's efforts will be resisted by countries and political leaders who fear the power of organized labor, and the potential that ILO-sponsored programs offer. ILO must choose, but it should understand that accommodating nations and systems that repress and crush men and women around the globe into commodities is not really an option. The pressure will be intense, and the advocates of the dark path I have described will use every trick in the book to convince ILO's leaders that their vision of the good is preferable.

This is why we must remember our shared humanity. We must reject the understandable, but insidious, tendency to evaluate the worth of working men and women only by measuring the value they add to raw materials in an extended, global supply chain.

The ILO's moral center is the protection of human persons and of their right and duty to organize to advance their personal, economic, and political interests. The national and commercial forces arrayed against them are formidable, but they cannot succeed if the ILO remains anchored in the principles that have made its first 100 years such a resounding success.

The United States of America is firmly committed to advancing those principles. We are proud to be the largest financial supporter of the ILO, and strive to demonstrate our own commitment protect the dignity and worth of our own workers on a daily basis.

If, a hundred years from now, the world is a freer, fairer, more prosperous place; If dysfunctional national and transnational systems that oppress workers and the associations they form have crumbled under the weight of their own moral and economic bankruptcy; I am confident it will be because of the work and moral clarity of the member nations in this room, and because of the commitment and devotion of the men and women who are, together, the International Labor Organization.

Thank you again for the opportunity to speak, and to join with you in this celebration of the next 100 years of the ILO!

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G. TORTURE AND EXTRAJUDICIAL KILLING

See the November 7 general statement, discussed in section A.2, *supra*.

On June 26, 2019, the State Department issued a statement in support of the International Day in Support of Victims of Torture. That statement is available at <https://www.state.gov/international-day-in-support-of-victims-of-torture/>.

On July 16, 2019, the United States sent a letter to Nils Melzer, the special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for the Human Rights Council, responding to a May 28, 2019 letter in which Mr. Melzer expressed concerns regarding the treatment of Julian Assange. The July 16, 2019 U.S. response follows and is available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=34784>. The May 28 letter from the special rapporteur (not excerpted herein) is available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24642>.

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As a preliminary matter, the United States notes that your characterization of Mr. Assange's self-imposed time in the Ecuadorian Embassy in London as "prolonged arbitrary confinement" is fundamentally wrong. Mr. Assange voluntarily stayed in the Embassy to avoid facing lawful

criminal charges pending against him. As such, his time in the Embassy did not constitute confinement and was in no way arbitrary.

Further, the United States does not accept the assertion on page eight of your letter that the United States bears international responsibility for “patterns of cruel, inhuman or degrading treatment or punishment” and “psychological torture” of Mr. Assange. Mr. Assange is not, and never has been, in the custody of the United States, nor has the United States instigated, consented to, or acquiesced in the alleged torture or cruel, inhuman or degrading treatment or punishment of Mr. Assange. The assertion to the contrary in your letter appears to rest on the allegation that there has been “sustained and unrestrained public mobbing, intimidation and defamation” of Mr. Assange in the United States. The letter refers to alleged public statements by, among others, the mass media, influential private individuals, current and former political figures, and senior government officials, and suggests that the United States was obligated to publicly disapprove or prevent such statements. The United States rejects the proposition that the types of public statements listed in your letter constitute cruel, inhuman or degrading treatment or punishment, much less torture, as defined by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Further, the United States is deeply concerned by the suggestion that independent reporting or other commentary and discourse on public figures could amount to torture or cruel, inhuman or degrading treatment or punishment. Such a position by the Special Rapporteur has dangerous implications for freedom of expression, democracy, and the rule of law. The United States also rejects the suggestion that it has an obligation to suppress protected speech in order to uphold its obligations under the CAT and notes in this regard its firm commitment to freedom of expression, including for members of the media, consistent with the U.S. Constitution and the United States’ obligations under international human rights law. Finally, and contrary to the allegations in your letter, the U.S. legal system provides redress for individuals who wish to assert claims of defamation.

In addition, the United States categorically rejects the claims in your letter that the United States will torture or otherwise mistreat Mr. Assange if he is extradited to the United States to face criminal prosecution. The United States takes its obligations under international human rights law very seriously. Individuals extradited to the United States are afforded due process under U.S. law and fair trial guarantees; U.S. law protects individuals in the U.S. justice system from torture and cruel, inhuman or degrading treatment or punishment, including through protections under the Fifth, Eighth, and Fourteenth Amendments to the U.S. Constitution. It is inarguable that our system of law is consistent with our obligations under international human rights law.

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On October 14, 2019, Sofija Korac, adviser for the U.S. Mission to the UN, delivered the U.S. statement in a Third Committee meeting on the report of the special rapporteur on torture and other cruel, inhumane or degrading treatment. Ms. Korac’s statement is excerpted below and available at <https://usun.usmission.gov/statement-in-the-third-committee-meeting-on-the-report-of-the-special-rapporteur-on-torture-and-other-cruel-inhumane-or-degrading-treatment/>.

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The United States remains appalled by the many instances of torture around the globe.

We are deeply concerned by reports of violence in Cameroon by all sides of the Anglophone crisis, including reported torture by government authorities, to intimidate individuals in detention and outside alike.

The United States deplores the reports of torture in Nicaragua's prisons, particularly of protesters detained since April 2018.

The United States again condemns the reports of torture by Iranian authorities against labor activists, members of ethnic and religious minorities, prisoners of conscience, and dual nationals.

We are dismayed by the lack of accountability for the reported campaigns of pervasive torture and extrajudicial killings in Russia's Republic of Chechnya, in addition to February's credible reports of torture by criminal investigators in Surgut, who later received promotions after the alleged torture of Jehovah's Witnesses.

The United States condemns the nearly 7,000 extra-judicial killings allegedly committed by the former Maduro regime since 2018, according to the UN High Commissioner for Human Rights Michelle Bachelet's July 4 report on human rights abuses in Venezuela. Additionally, we condemn the reported use of torture against Venezuelan civilian and military detainees, including the death in custody of Venezuelan Navy Captain Rafael Acosta Arevalo in June 2019.

The Assad regime has tortured nearly 14,000 Syrians to death since 2011, according to the Syrian Network for Human Rights. The United States condemns in the strongest terms the Assad regime's continued use of arbitrary detention, torture, and extrajudicial killing. Crematoriums will not hide Syrian government atrocities which are tantamount to crimes against humanity.

In China, Uighurs and other Muslims detained in Xinjiang internment camps face torture and cruel, inhuman or degrading treatment, and psychological abuse in an attempt to erase their ethnic and religious identities. The US condemns these abuses.

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Also on October 14, 2019, at a Third Committee Meeting, Ms. Korac offered remarks on the Committee Against Torture. Those remarks are excerpted below and available at <https://usun.usmission.gov/remarks-in-a-un-third-committee-meeting-on-the-committee-against-torture/>.

* * * *

Thank you, Chair. The US applauds the adoption of a mechanism to prevent, monitor and follow up to cases of reprisal against civil society organizations, human rights defenders, victims and witnesses after their engagement with the treaty body system.

The United States has no tolerance for torture and cruel, inhuman or degrading treatment or punishment. We hold ourselves to our founding principles and will continue to hold others to their international obligations.

We demonstrate our commitment to the fight against torture by funding support programs and organizations that provide assistance to torture victims, as well as taking seriously our obligations under the International Covenant on Civil and Political Rights and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

We emphasize that torture and other cruel, inhuman or degrading treatment or punishment are unacceptable, counterproductive and destructive to any community that allows such abuse.

The United States urges all countries to strengthen their capacity to prevent torture and cruel, inhuman or degrading treatment or punishment, including through the establishment of accountability mechanisms.

We'd like to end by asking the committee chair the following question: What effect has the problem of reprisals against those who work with the UN, including UN rapporteurs and NGO staff, had on the daily work of the Committee?

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On October 24, 2019, Acting U.S. Representative to the United Nations Economic and Social Council Courtney R. Nemroff delivered remarks at a UN Third Committee dialogue with the special rapporteur on extrajudicial killings. Ms. Nemroff's remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-third-committee-dialogue-with-the-special-rapporteur-on-extrajudicial-killings/>.

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[T]he United States is deeply concerned that impunity for extrajudicial killings has become common around the world.

In Burundi, security forces and members of the ruling party's youth wing reportedly continue to perpetrate unlawful killings against perceived members of the opposition. This situation appears to be worsening in the lead up to the country's 2020 elections.

In the Philippines, there are credible allegations that security forces, vigilantes and others conduct extrajudicial killings in the government's war on drugs.

In Venezuela, the United Nations reports that the Maduro regime has committed almost 7,000 extrajudicial killings since 2018.

We have been clear that the murder of Jamal Khashoggi was a heinous act. It is crucial that the Saudi government continue to ascertain the facts, conduct a fair and transparent judicial process, and hold accountable those responsible for the murder of Mr. Khashoggi.

In Syria, the Assad regime is responsible for innumerable atrocities, some of which rise to the level of war crimes and crimes against humanity. These atrocities include the use of chemical weapons, killings, torture, enforced disappearance, and other inhumane acts.

In Northeast Syria we are deeply troubled by reports suggesting that Turkish Supported Opposition forces have deliberately targeted civilians. Such acts—if verified—are barbarous and contrary to the laws of armed conflict. We urge Turkey to immediately investigate these incidents, ensure its forces and any other forces under its command and control act in accordance with the law of armed conflict.

We are also concerned about credible reports of extrajudicial killings in Libya, Bangladesh, and Nicaragua.

We urge governments to conduct thorough and transparent investigations into all reports of extrajudicial killings.

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H. BUSINESS AND HUMAN RIGHTS

On October 16, 2019, the U.S. Mission to the UN in Geneva issued a statement regarding the U.S. government's continued opposition to the process of developing a business and human rights treaty. The statement is excerpted below and available at <https://geneva.usmission.gov/2019/10/16/the-united-states-governments-continued-opposition-to-the-business-human-rights-treaty-process/>.

* * * *

The United States once again will not participate in this week's session of the Open-Ended Intergovernmental Working Group (OEIGWG) on the articulation of a business and human rights treaty in Geneva, because it remains opposed to the treaty process and the manner in which it has been pursued. This process continues to detract from the valuable foundation laid by the UN Guiding Principles (UNGPs), a framework for preventing and addressing adverse human rights impacts that involve business activity. The international community has spoken clearly on this topic, emphasizing the need for the voluntary, multi-stakeholder, and consensus-based approach developed through the UNGPs. The OEIGWG process runs counter to the consensus of the international community.

We appreciate many of the concerns that have motivated some in civil society to support the treaty initiative, including how to improve access to effective remedies for those impacted by business-related human rights abuses. We continue to believe, however, that the one-size-fits-all approach represented by the proposed treaty is not the best way to address all adverse effects of business activities on human rights. The revised version of the proposed treaty does not remedy the flaws that plagued last year's draft. Rather, some of these flaws have become worse. The UNGPs were painstakingly crafted to avoid the unworkable approach represented by the draft treaty.

Furthermore, negotiations around the draft treaty continue to be highly contentious, resulting in a crippling lack of participation from many key stakeholders—most notably a sizable percentage of the States that are home to the world's largest transnational corporations. Indeed, like the United States, several such States chose to absent themselves from last year's OEIGWG session and have done the same this year. The process has become irreconcilably broken and dissenting voices are routinely silenced by those running the process, including by omitting dissenting views from the annual reports, ostensibly to project an appearance of greater consensus.

By contrast, the work being done by companies, governments, civil society, and others—including through partnerships, multi-stakeholder initiatives, National Action Plans, standard-setting, rankings, consumer education, and procurement—is innovative, constructive, and

continues to bear practical fruit. The Office of the High Commissioner for Human Rights' Accountability and Remedy Project, and the numerous informative thematic and country reviews undertaken by the UN Working Group on Business and Human Rights, are also positively contributing to the development of a rich body of best practices for implementing the UNGPs.

In sum, we believe the consensus approach offered by the UNGPs—rather than the OEIGWG approach, which ignores the legitimate concerns of key stakeholders and will not achieve consensus—is without question the right one to take, and is necessary for continued progress.

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On October 29, 2019, John Giordano, public delegate for the U.S. Mission to the UN, delivered the U.S. delegation's statement at a meeting of the Third Committee's business and human rights working group. Mr. Giordano's statement is excerpted below and available at <https://usun.usmission.gov/statement-by-the-delegation-of-the-united-states-of-america-in-the-third-committee-un-business-and-human-rights-working-group/>.

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The UN Guiding Principles on Business and Human Rights represent an important global consensus on both the state duty to protect and the corporate responsibility to respect human rights. We stand behind efforts to strengthen and improve the implementation of the UN Guiding Principles by states and businesses, including focus on pillar three access to remedy.

We look forward to seeing the Working Group's report regarding actions states and businesses can take to safeguard and support human rights defenders in line with the Guiding Principles. This work is more relevant than ever given global restrictions on civic space, both within countries' borders and through limiting civil society's participation in international fora such as the UN system. The U.S. government supports this initiative.

We are pleased to see the Working Group's continued efforts to encourage sovereign governments to develop National Action Plans on business and human rights, known as "NAPs." As mentioned in the Working Group's most recent report, NAPs are an important tool that governments can use to strengthen the rule of law and strengthen policy coherence around business and human rights-related issues. We are seeing more governments around the world develop NAPs, including several in Southeast Asia and Africa.

We look forward to continue working with other members to measure and strengthen implementation of the Guiding Principles across sectors and regions.

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I. INDIGENOUS ISSUES

1. UN General Assembly Third Committee Resolution

On October 11, 2019 at a meeting of the Third Committee of the UN General Assembly, Jason Mack delivered remarks on the rights of indigenous peoples. His remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-third-committee-meeting-on-agenda-item-69-rights-of-indigenous-peoples/>.

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Under the agenda item “Rights of Indigenous Peoples,” it is appropriate to call attention to the continuing violence, discrimination, persecution, and human rights abuses that indigenous peoples face around the world. Indigenous peoples themselves are outspoken critics of these abuses, while also being subject to attempts to discredit indigenous human rights defenders. For example, at this past spring’s Permanent Forum on Indigenous Issues (PFII), Dolkun Isa of the World Uighur Congress criticized the Chinese government’s policy of ending bilingual education in Xinjiang. In response, the Chinese delegation made unfounded and inappropriate accusations against him. We see this as part of a disturbing pattern in which China seeks to suppress the voices of religious and ethnic minorities and indigenous peoples. They should be able to stand before the United Nations and other international fora to share their experiences without intimidation or harassment.

The Chinese government has continued its highly repressive campaign against its indigenous populations—including Uighurs, ethnic Kazakhs, Kyrgyz, and other Muslims in Xinjiang. We estimate that since April 2017, the Chinese government has detained over one million individuals in internment camps for periods of months to years. They are forced to renounce their ethnic identities, religious beliefs, or cultural and religious practices, and are subjected to forced labor, torture, inhumane conditions, and even death. China’s assertion that detention is necessary to counter violent extremism is not credible in light of known facts, and its policies are likely to fuel the very resentment and radicalization to violence the policy [purportedly] seeks to avoid. Chinese authorities harass Uighurs, ethnic Kazakhs, Kyrgyz, and other members of Muslim minority groups abroad, in order to compel them to return to Xinjiang or to keep silent about the human rights situation there. China is also pressuring governments to return asylum-seekers belonging to these groups.

We ask those governments who have asylum-seekers in custody belonging to these groups to give the UN office of the High Commissioner for Refugees (UNHCR) access to them, in order to assess their protection needs and provide assistance.

We are also concerned about the ongoing abuses against indigenous peoples in Venezuela. According to a July report by the UN High Commissioner for Human Rights (OHCHR), there are abuses of indigenous peoples’ collective rights to their traditional lands and resources. Their traditional lands have been militarized, and in recent years the state’s presence has led to violence, insecurity, illness, and environmental degradation. Often-illicit mining operations in Venezuela’s indigenous communities have disproportionately affected indigenous women and girls, who are at increased risk for sexual assault, exploitation, and human

trafficking. State actors have threatened and attacked indigenous authorities and leaders, including women. In Bolivar State, Pemon communities—particularly indigenous authorities and leaders—who oppose the Maduro regime face targeted repression by State actors. OHCHR has documented seven deaths of indigenous individuals under violent circumstances in 2019. The regime must cease such attacks on Venezuela’s indigenous community and respect the human rights of all people in Venezuela.

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2. UN General Assembly

On November 7, 2019, Jordyn Arndt, adviser for the U.S. Mission to the UN, delivered the U.S. explanation of position on the resolution on the rights of indigenous peoples. The explanation of position is available at <https://usun.usmission.gov/united-states-explanation-of-position-on-rights-of-indigenous-peoples/> and excerpted below.

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We thank Bolivia and Ecuador for their resolution entitled “Rights of Indigenous Peoples.” The United States reaffirms its support for the UN Declaration on the Rights of Indigenous Peoples. As explained in our 2010 Statement of Support, the Declaration is an aspirational document of moral and political force and is not legally binding or a statement of current international law. The Declaration expresses aspirations that the United States seeks to achieve within the structure of the U.S. Constitution, laws, and international obligations, while also seeking, where appropriate, to improve our laws and policies.

The United States wishes consensus agreement could have been reached on wording to promote repatriation of ceremonial objects and human remains. We continue to encourage States to develop national mechanisms, such as laws or museum policies, in consultation with indigenous peoples concerned. In 1990, the United States established a mechanism for the U.S. government to work in consultation with Native Americans to repatriate human remains and ceremonial objects. As a result, U.S. institutions have returned approximately 1.9 million items to Native American communities that depend on them for their well-being.

With regard to OP 21, the United States notes that sexual harassment, while condemnable, is not necessarily violent. In U.S. law, the term violence refers to physical force or the threat of physical force.

Finally, with regard to this resolution’s references to the 2030 Agenda for Sustainable Development; the Global Compact for Safe, Orderly, and Regular Migration; and what we view as the non-consensus based Conclusions of the Commission on the Status of Women’s 63rd session, we addressed our concerns in a statement immediately preceding this debate.

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3. UN Permanent Forum on Indigenous Issues

On April 26, 2019, Linda Lum, advisor to the U.S. Mission to the UN, delivered the U.S. statement at the UN Permanent Forum on Indigenous Issues on the agenda item on participation of indigenous peoples. Ms. Lum's statement is excerpted below and available at <https://usun.usmission.gov/u-s-statement-un-permanent-forum-on-indigenous-issues-18th-session-agenda-item-12-participation-of-indigenous-peoples/>.

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The United States continues to champion ensuring the diversity of views in the United Nation system, through pushing for robust participation of various stakeholders including civil society and indigenous peoples. Unfortunately, the General Assembly's enhanced participation process ended without creating a separate category for indigenous peoples at the UN, and indigenous representatives still have to register as NGOs [representatives] in order to participate at UN meetings. The United States continues to support having a wide array of views heard at the UN. We think that this enriches the debate and leads to more informed outcomes—indigenous peoples have valuable knowledge and expertise on a variety of topics addressed at the United Nations, and we need to ensure that this expertise is heard here and not stifled by some member states.

To this end, we would like to highlight our concerns about certain indigenous populations beyond our borders, particularly those in Tibetan Autonomous Region and the Xinjiang Uighur Autonomous Region of the People's Republic of China. The United States is deeply concerned by severe restrictions on the expression of cultural and religious identities in these areas, including with respect to use of the Tibetan and Uighur languages. We are alarmed by the mass detention of Uighurs, ethnic Kazakhs, Kyrgyz, and other Muslims in detention camps, where they are required to renounce their ethnic identities and cultural practices. We again call on the Chinese government to close the internment camps in Xinjiang and demonstrate respect for the human rights of members of Xinjiang's indigenous communities.

This is why, for example, we take the work of the Permanent Forum so seriously. The forum will have open seats on May 7th and we encourage all ECOSOC members to vote for those members running who protect and promote the human rights of all indigenous peoples and support their participation at the UN. We do not want to walk back efforts on this topic by electing members who will not ensure that the goals of the Forum are fulfilled.

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J. FREEDOM OF EXPRESSION

1. Statement on Christchurch Call for Action

On May 15, 2019, the White House issued the U.S. statement on the Christchurch Call for Action. The United States did not endorse the Call for Action due to concerns for freedom of expression and freedom of the press. The U.S. statement is available at <https://nz.usembassy.gov/statement-on-christchurch-call-for-action/> and excerpted below.

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The United States stands with the international community in condemning terrorist and violent extremist content online in the strongest terms. Underscored by the horrific terror attacks in Christchurch, New Zealand on March 15, we agree with the overarching message of the Christchurch Call for Action, and we thank Prime Minister Ardern and President Macron for organizing this important effort.

While the United States is not currently in a position to join the endorsement, we continue to support the overall goals reflected in the Call. We will continue to engage governments, industry, and civil society to counter terrorist content on the Internet.

The U.S. policy position remains unchanged and consistent with our long-standing ideals: We encourage technology companies to enforce their terms of service and community standards that forbid the use of their platforms for terrorist purposes. We continue to be proactive in our efforts to counter terrorist content online while also continuing to respect freedom of expression and freedom of the press. Further, we maintain that the best tool to defeat terrorist speech is productive speech, and thus we emphasize the importance of promoting credible, alternative narratives as the primary means by which we can defeat terrorist messaging.

We welcome the continued momentum provided by support for the Christchurch Call as we work with international partners towards our mutual objectives for an open, interoperable, reliable, and secure internet.

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2. Statement at Third Committee Dialogue with Special Rapporteur

On October 22, 2019, Mr. Mack delivered remarks at a UN Third Committee dialogue with the special rapporteur on freedom of expression. Mr. Mack's remarks are excerpted below and available at <https://usun.usmission.gov/remarks-at-a-un-third-committee-dialogue-with-the-special-rapporteur-on-the-freedom-of-expression/>.

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Hate speech, while deserving of the strongest condemnation, should not be justification for undue restrictions on freedom of expression.

In the United States, our experience has taught us that broad speech restrictions are not effective. Instead, they all too often constrain democratic engagement, diminish respect for human dignity, and stifle change and social advancement. Banning offensive speech has often served to protect those interested solely in maintaining the status quo or their own political preferences.

We are gravely concerned that decisions by governments to ban offensive speech might serve—intentionally or unintentionally—to undermine human rights and democracy. Unfortunately, we see examples of intentional abuse of such restrictions all over the world.

In China, we condemn the government’s methods to limit and dismantle freedom of expression and create a pervasive surveillance state—particularly in Xinjiang.

We are troubled by systematic actions the Turkish government has taken to restrict Turkey’s media environment, including closing media outlets, jailing media professionals, and blocking critical online content.

We are concerned that Bangladesh’s Digital Security Act is used to suppress and criminalize free speech, to the detriment of Bangladesh’s democracy.

Democracy and prosperity depend on the free exchange of ideas and the ability to dissent. The United States robustly protects freedom of expression because the cost of stripping away individual rights is far greater than the cost of tolerating hateful words. We believe the best way to combat intolerant ideas is to have them fall of their own weight when challenged by well-reasoned counter arguments.

We welcome the Secretary-General’s Strategy and Plan of Action on Hate Speech. As noted in the guiding principles for the Strategy, governments, the private sector, and civil society all have a role in combatting hate speech.

The United States stands ready to support implementation of the Plan of Action and looks forward to continuing dialogue on this important issue.

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K. FREEDOM OF RELIGION OR BELIEF

1. U.S. Annual Report

On June 21, 2019, the U.S. Department of State submitted the 2018 International Religious Freedom Report to the United States Congress. The report is available at <https://www.state.gov/international-religious-freedom-reports/>. Secretary Pompeo delivered remarks on the release of the 2018 Report, available at <https://www.state.gov/secretary-of-state-michael-r-pompeo-at-the-release-of-the-2018-annual-report-on-international-religious-freedom/> and excerpted below.

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I'm pleased to announce ... the release of the ... International Religious Freedom Report for 2018. It's like a report card—it tracks countries to see how well they've respected this fundamental human right. I'll start with the good news:

In Uzbekistan, much work still remains to be done, but for the first time in 13 years, it's no longer designated as a Country of Particular Concern.

This past year, the government passed a religious freedom roadmap. Fifteen hundred religious prisoners have been freed, and 16,000 people that were blacklisted for their religious affiliations are now allowed to travel. We look forward to seeing legal reforms to registration requirements, so more groups may worship freely, and so children may pray at mosques with their parents.

In Pakistan, the supreme court acquitted Asia Bibi, a Catholic, of blasphemy, sparing her the death penalty after she spent nearly a decade in prison. However, more than 40 others remain jailed for life, or face execution on that very same charge. We continue to call for their release, and encourage the government to appoint an envoy to address the various religious freedom concerns.

And in Turkey, at President Trump's urging, they released Pastor Andrew Brunson, who had been wrongfully imprisoned on account of his faith. We continue to seek the release of our locally employed staff there. In addition, we urge the immediate reopening of the Halki Seminary near Istanbul.

Look, we welcome all of these glimmers of progress, but demand much more. 2018, unfortunately, was far from perfect.

As in previous years, our report exposes a chilling array of abuses committed by oppressive regimes, violent extremist groups, and individual citizens. For all those that run roughshod over religious freedom, I'll say this: The United States is watching and you will be held to account.

In Iran, the regime's crackdown on the Baha'is, Christians, and others continues to shock the conscience.

In Russia, Jehovah's Witnesses were absurdly and abhorrently branded as terrorists, as authorities confiscated their property and then threatened their families.

In Burma, Rohingya Muslims continue to face violence at the hands of the military. Hundreds of thousands have fled or been forced to live in overcrowded refugee camps.

And in China, the government's intense persecution of many faiths—Falun Gong practitioners, Christians, and Tibetan Buddhists among them—is the norm.

The Chinese Communist Party has exhibited extreme hostility to all religious faiths since its founding. The party demands that it alone be called God.

I had a chance to meet with some Uighurs here, but unfortunately, most Chinese Uighurs don't get a chance to tell their stories. That's why, in an effort to document the staggering scope of religious freedom abuses in Xinjiang, we've added a special section to this year's China report.

History will not be silent about these abuses—but only if voices of liberty like ours record it.

Finally, I'll mention just one more reason this report matters so much: It will inspire conversations leading up to our second annual Ministerial to Advance Religious Freedom that I'll be hosting here in mid-July.

This year, we'll welcome up to 1,000 individuals who will renew their zeal for the mission of religious freedom, and I'm proud to be one of them.

I'm crossing the days off my calendar waiting for this. Last year was the first time in history that there had been such a foreign-ministerial level conference on religious freedom.

We brought together representatives and activists and religious leaders from virtually every corner of the world. It was truly a stunning show of unity—people of all faiths standing up for the most basic of all human rights. It was so successful that I immediately committed to hosting it the next year on the very day.

Look, the good work that was done didn't stop at the end of that conference. Both the United Arab Emirates and Taiwan demonstrated impressive leadership by hosting follow-on conferences. And the International Religious Freedom Fund, which we launched to support victims of persecution and give groups the tools to respond, has already received millions of dollars. I'm looking forward to this year's ministerial being inspiring, and I know that it will be.

And I'll now turn it over to my friend and our Ambassador-At-Large for International Religious Freedom, Sam Brownback, to take your questions. Thank you, all.

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2. Designations under the International Religious Freedom Act

On December 18, 2019, the Department of State re-designated Burma, China, Eritrea, Iran, North Korea, Pakistan, Saudi Arabia, Tajikistan, and Turkmenistan as “Countries of Particular Concern” under the International Religious Freedom Act of 1998, as amended. 84 Fed. Reg. 71,064 (Dec. 26, 2019). The “Countries of Particular Concern” were so designated for having engaged in or tolerated “particularly severe violations of religious freedom,” *id.*, which the Act defines as “systematic, ongoing, egregious violations of religious freedom.” 22 U.S.C. § 6402(13). The Department renewed the placement of Comoros, Russia, and Uzbekistan on a Special Watch List (“SWL”) for governments that have engaged in or tolerated “severe violations of religious freedom,” and added Cuba, Nicaragua, Nigeria, and Sudan to this list. 84 Fed. Reg. 71,064. The “Presidential Actions” or waivers designated for each of the countries designated by the Secretary as Countries of Particular Concern are listed in the Federal Register notice. *Id.* The Department also designated al-Nusra Front, al-Qa’ida in the Arabian Peninsula, al-Qa’ida, al-Shabab, Boko Haram, the Houthis, ISIS, ISIS-Khorasan, and the Taliban as “Entities of Particular Concern,” under section 301 of the Frank R. Wolf International Religious Freedom Act of 2016 (Pub. L. 114–281). *Id.* at 71,064–65.

The State Department issued a press statement on December 20, 2019, available at <https://www.state.gov/united-states-takes-action-against-violators-of-religious-freedom/>, announcing the designations. The press statement explains that the Department moved Sudan to the SWL due to the civilian-led transitional government’s steps to address the previous regime’s “systematic, ongoing, and egregious violations of religious freedom,” and states:

These designations underscore the United States’ commitment to protect those who seek to exercise their freedom of religion or belief. We believe that everyone, everywhere, at all times, should have the right to live according to the dictates of their conscience. We will continue to challenge state and non-state

entities that seek to infringe upon those fundamental rights and to ensure they are held to account for their actions.

This month, the U.S. Government announced designations of 68 individuals and entities in nine countries for corruption and human rights abuses under the Global Magnitsky Act, among them four Burmese military leaders responsible for serious human rights abuses against the Rohingya Muslims and other religious and ethnic minorities. In October, we placed visa restrictions on Chinese government and Communist Party officials who are believed to be responsible for, or complicit in, the detention or abuse of Uighurs, Kazakhs, or other members of Muslim minority groups in Xinjiang, China.

L. OTHER ISSUES

1. Purported Right to Development

On November 18, 2019, Daniel Thompson, adviser to the U.S. Mission to the UN, delivered the U.S. statement on “The Right to Development.” Mr. Thompson’s statement is excerpted below and available at <https://usun.usmission.gov/statement-on-agenda-item-70-b-the-right-to-development/>.

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The United States is firmly committed to the promotion and advancement of global development efforts. The U.S. government collaborates with developing countries, other donor countries, non-governmental organizations, and the private sector in order to alleviate poverty and aid development efforts across all dimensions. However, the United States maintains its long-standing concerns over the existence of a “right to development” within existing human rights law.

We note that the “right to development” discussed in this resolution is not recognized in any of the core UN human rights conventions, does not have an agreed international meaning, and, unlike with human rights, is not recognized as a universal right held and enjoyed by individuals and which every individual may demand from his or her own government. Indeed, we continue to be concerned that the “right to development” identified within the text protects states instead of individuals.

States must implement their human rights obligations, regardless of external factors, including the availability of development and other assistance. Lack of development may not be invoked to justify the abridgement of internationally recognized human rights. To this end, we continually encourage all states to respect their human rights obligations and commitments, regardless of their levels of development.

Additionally, the United States cannot support the inclusion of the phrase “to expand and deepen mutually beneficial cooperation.” This phrase has been promoted interchangeably with “win-win cooperation” by a single Member State to insert the domestic policy agenda of its Head of State in UN documents. None of us should support incorporating political language targeting a

domestic political audience into multilateral documents—nor should we support language that undermines the fundamental principles of sustainable development.

For these reasons, we request a vote and we will vote against this resolution.

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Cross References

Asylum, Refugees, and Migrant Protection Issues, **Ch. 1.C.**

Prosecution in the United States for Female Genital Mutilation, **Ch. 4.C.1.**

Aguasvivas v. Pompeo (asylum claim based on CAT), **Ch. 3.A.4.**

Trafficking in Persons, **Ch. 3.B.3.**

Alien Tort Statute and Torture Victims Protection Act, **Ch. 5.B.**

Accountability of UN Officials and Experts on Mission, **Ch. 7.A.1.**

ICJ Opinion on the British Indian Ocean Territory, **Ch. 7.B.2.**

ILC Draft Articles on Crimes Against Humanity, **Ch. 7.C.1.**

Inter-American Commission on Human Rights, **Ch. 7.D.3.**

Sustainable Development, **Ch. 13.C.3.**

Sanctions relating to human rights in Iran, **Ch. 16.A.1.c.(4)**

Venezuela sanctions, **Ch. 16.A.5.**

Magnitsky and other corruption and human rights sanctions, **Ch. 16.A.11.**

China (Xinjiang) sanctions, **Ch. 16.A.12.a.**

Atrocities prevention, **Ch. 17.C.**

Responsibility to Protect, **Ch. 17.C.4.**

International humanitarian law, **Ch. 18.A.5.**